

ALBUQUERQUE/BERNALILLO COUNTY
EXTRATERRITORIAL LAND USE AUTHORITY

ORDINANCE NO. _____

1 AN ORDINANCE ADOPTING COMPREHENSIVE ZONING REGULATIONS AND
2 ADOPTING A ZONE MAP FOR THE EXTRATERRITORIAL AREA OF ALBUQUERQUE
3 AND BERNALILLO COUNTY, NEW MEXICO.

4
5 BE IT ORDAINED BY THE EXTRATERRITORIAL LAND USE AUTHORITY OF
6 ALBUQUERQUE/BERNALILLO COUNTY:

7
8 Section 1. Title.

9
10 This ordinance shall be known as "Albuquerque/Bernalillo County Extraterritorial Zoning
11 Ordinance."

12
13 Section 2. Purpose.

14
15 The regulations and restrictions of this ordinance are designed to lessen congestion in the streets
16 and public ways; to secure safety from fire, panic, flooding and other dangers; to promote health
17 and the general welfare; to provide adequate light and air; to prevent the overcrowding of land;
18 to avoid undue concentration of population; to facilitate the adequate provisions for
19 transportation, water, sewerage, schools, parks, and other public requirements; to conserve the
20 value of buildings and lands; and to encourage the most appropriate use of land throughout the
21 Extraterritorial Area of Albuquerque/Bernalillo County.

22
23 Section 3. Interpretation and conflict.

24
25 The regulations, restrictions, and requirements of this ordinance shall be held to be the minimum
26 standards to carry out the purpose of this ordinance. This ordinance is not intended to interfere
27 with, abrogate, or annul any easement, covenant, or other agreement between parties, or other
28 valid ordinances. Where this ordinance imposes a greater restriction upon the use of land or
29 building, or upon the height of building, or requires larger open space than is imposed by other
30 rules, regulations, easements, covenants, agreements, or ordinances, the provisions of this
31 ordinance shall control.

32
33 Section 4. General provisions.

34
35 Except as herein otherwise provided:

36
37 A. The use and height of buildings hereafter erected, converted, enlarged or structurally altered,
38 and the use of any land shall be in compliance with the regulations established herein for the
39 zone in which such land or building is located.

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- 1
- 2 B. No lot area shall be so reduced that the yards and open spaces shall be smaller than is
- 3 required by this ordinance, nor shall the density of population be increased in any manner
- 4 except in conformity with the area regulations hereby established for the zone in which a
- 5 building or premises is located.
- 6
- 7 C. No part of a yard or other open space provided about any building for the purpose of
- 8 complying with the provisions of this ordinance shall be included as a part of a yard or other
- 9 open space required for another building.
- 10
- 11 D. Every building hereafter erected, converted, enlarged, or structurally altered shall be located
- 12 on a lot, and in no case shall there be more than one main building on one lot, except as
- 13 regulated in Subsection 22.D. (1) of the Supplementary Height and Area Regulations and in
- 14 the Special Use Permit Regulations.
- 15
- 16 E. Off-street parking for all uses must be provided in accordance with the regulations set forth
- 17 in the Off-Street Parking, Loading and Unloading Regulations of this ordinance.
- 18
- 19 F. Unobstructed vision clearance for traffic safety shall be maintained by the property owner or
- 20 occupant on all corner lots regardless of the zone classification with reference to any
- 21 building, sign, fence, ornament, hedge, shrub, tree, display, or other obstruction, but not
- 22 including existing buildings.
- 23
- 24 G. In order to protect persons and property from periodic flooding and to preserve the location,
- 25 character, and extent of natural drainage courses, all property within 125 feet of the
- 26 centerline of the major arroyos shown on the Master Plan of Drainage of the City of
- 27 Albuquerque and Environs or on the Zone Map of the Extraterritorial area is subject to the
- 28 following requirements.
- 29
- 30 1. No building or structure may be constructed, altered, or occupied, no materials or
- 31 equipment may be stored, and no mining, excavation, or land filling may be performed,
- 32 except upon issuance of a certificate of approval by the Zoning Administrator.
- 33
- 34 2. Procedures:
- 35
- 36 a. An application for a certificate of approval must include a contour map referenced to
- 37 the appropriate datum plane, prepared by a registered New Mexico civil engineer,
- 38 which indicates the extent and elevations of all proposed construction, alterations,
- 39 mining, excavation, and land filling.
- 40
- 41 b. An application must contain other studies as may be required to determine the effect
- 42 of flooding on the proposed structure or activity and the effect of the proposed
- 43 structure or activity on the arroyo or flood drainage channel.
- 44

**CONTINUATION PAGE 3 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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c. Prior to the issuance of a certificate of approval, the Zoning Administrator must examine the plans and land of the applicant. The Zoning Administrator must find that the building, structure, or activity will not constitute a hazard to persons or property, will not divert water from or obstruct the natural flow of water in the arroyo or flood drainage channel, will not cause flooding of land outside the natural drainage course, and will not reduce or endanger the water-carrying capacity of the arroyo or flood drainage.

d. The applicant may be required to erect dikes, barriers, or other structures or improvements necessary to guarantee protection to the public as a condition to the issuance of a certificate of approval.

3. The issuance of a certificate of approval will not constitute a representation, guarantee or warranty of any kind or nature by the County of Bernalillo, the Extraterritorial Land Use Authority, or by any political subdivision, or by an officer or employee of any of them, of the practicability or safety of any structure or activity, and will create no liability upon or cause of action against any public body, officer, or employee for damage that may thereby result.

4. In the event of a conflict between the location of a major arroyo as shown on the Zone Map and the actual location of the arroyo on the ground, the centerline of the actual location of the arroyo controls for the purposes of these regulations.

Section 5. Definitions.

Words used in the present tense include the future tense, and words used in the future tense include the present tense; the singular number includes the plural number, and the plural number includes the singular number. The word "shall" is mandatory, and the word "may" is permissive.

Abutting. Touching.

Access. A way of approaching or entering a property primarily devoted to vehicular use from a public street, highway or to a private street or access easement. Access includes ingress and egress.

Accessory Building or Use. A subordinate building or use which is incidental to and customary in connection with the principal building or use and which is located on the same lot with such principal building or use.

Adult Amusement Establishment.

A. An establishment which provides amusement or entertainment which is distinguished or characterized by an emphasis on material depicting, describing, or relating to specified sexual activities or specified anatomical areas;

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1. Specified Anatomical Areas, means:

a. Less than completely and opaquely covered:

- (1) Human genitals or pubic region;
- (2) Buttock; and
- (3) Female breast below a point immediately above the top of the areola; and

b. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

2. Specified Sexual Activities, including the following:

- a. Human genitals in a state of sexual stimulation or arousal;
- b. Acts of human masturbation, sexual intercourse, or sodomy; and
- c. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

B. An establishment which features topless dancers, exotic dancers, strippers, male or female impersonators, or similar entertainment; or

C. An establishment which, upon payment of a fee provides an escort or a partner to its patrons.

D. An establishment which upon payment of a fee provides its patrons with a male or female model fully or partially clothed or nude for the purposes of demonstrating body oils, body lotions or devices.

Adult Bookstore. An establishment having a substantial or significant portion of its stock in film, video tapes, trade books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, or an establishment with a segment or section devoted to the sale or display of such material.

Adult Photo Studio. An establishment which, upon payment of a fee, provides photographic equipment or models for the purpose of photographing specified anatomical areas.

Adult Theater. A theater used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

Alley. A public way permanently reserved as a secondary means of access to abutting property.

Animal Clinic. An establishment where animals are admitted for examination and treatment and may be kept overnight.

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1 *Apartment.* One or more structures containing two or more dwelling units each.

2
3 *Automobile Dismantling Yard.* A premises on which is conducted the dismantling of
4 automobiles; there may be the selling of automobile parts and the storage of inoperative
5 automobiles awaiting dismantling or removal.

6
7 *Bathroom.* A room containing a wash basin and water closet. Rooms referred to locally as one-
8 half or three-quarter baths are one bath for the purpose of this ordinance.

9
10 *Bed and Breakfast House.* Means a dwelling unit containing at least one but not more than two
11 guest rooms where lodging is provided, with or without meals, for compensation.

12
13 *Billboard. Sign, off-premises.* A sign which advertises a product, place, activity, person,
14 institution or business not located on the site where the sign is located and which is supported by
15 structural steel uprights and conforms to all physical requirements prescribed by the Outdoor
16 Advertising Association of America and/or the Eight Sheet Outdoor Advertising Association.

17
18 *Boardinghouse or Lodginghouse.* A dwelling other than a hotel or apartment, where, for
19 compensation and by prearrangement for definite periods, lodging with or without meals is
20 provided for five or more persons, not members of the family, but not exceeding 20 persons.

21
22 *Buildable Area.* The area of the lot left to be built upon after all setbacks and open space
23 requirements have been met.

24
25 *Building.* Any structure having a roof supported by columns or walls built for the support,
26 shelter, or enclosure of persons, animals, chattels, or property of any kinds, but not including any
27 vehicle, trailer, (with or without wheels), not any movable devise, such as furniture, machinery
28 or equipment. When any portion of a building is completely separated from any other portion
29 thereof by a division wall without openings or by a fire wall, then each such portion shall be
30 deemed to be a separate building.

31
32 *Building, Height of.* The vertical distance from the grade to (a) the highest point of a flat roof, (b)
33 the deckline of a mansard roof, or (c) the average height between eaves and ridge for gable, hip,
34 and gambrel roofs.

35
36 *Building, Main.* The building occupied by the principal use of the property.

37
38 *Building or Use Permit.* The certificate issued by the Zoning Administrator, required by
39 Subsection C of the Administrative Section hereof.

40
41 *Business.* A legal entity operating an enterprise in a space separate from any other enterprise. All
42 related uses shall be accommodated on site with the building or use served.

43
44 *Central Urban Area.* An area designated "Central Urban" on the Albuquerque/Bernalillo County
45 Comprehensive Plan Map.

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1
2 *Church.* A building for public or private worship; or a body or organization of religious
3 believers.

4
5 *Clinic.* See Medical Clinic or Animal Clinic.

6
7 *Club.* Buildings and facilities owned or operated by a corporation, association, person, or persons
8 for a social, educational or recreational purpose, but not primarily for profit and not primarily to
9 render a service which is customarily carried on as a business.

10
11 *Commercial Animal Establishment.* Any establishment or premises, operating for profit, where
12 six or more dogs and/or cats or aggregate thereof, over four months of age are boarded, kept, or
13 maintained for any purpose whatsoever; it includes kennels, grooming parlors, pet shops, animal
14 hospitals and breeders.

15
16 *Conditional Use.* A use permitted in a zone with approval of the Zoning Administrator.

17
18 *Contiguous.* Abutting or separated only by an alley.

19
20 *Contractor.* One that contracts or is a party to a contract, one that contracts to perform work or
21 provide services or supplies on a large scale including but not limited to general contractor, road
22 contractor, lath and plaster contractor, plumbing contractor and truck hauling.

23
24 *Contractor's Yard.* A premises where equipment, materials and supplies are stored, kept, and/or
25 maintained in connection with a contracting operation.

26
27 *Courtyard.* An open space more than one-half surrounded by buildings.

28
29 *Day Care Center.* A facility which provides care, services, and supervision to seven or more
30 children for a period of less than 24 hours of any day. A Day Care Center may be located in any
31 building which meets the applicable state and local building and safety codes.

32
33 *Developing Urban Area.* An area designated "Developing Urban" on the Albuquerque/Bernalillo
34 County Comprehensive Plan Map.

35
36 *Drainage Plan.* A detailed drainage plan, prepared by a New Mexico registered engineer
37 competent in the area of surface hydrology and hydraulics to properly address how drainage will
38 be handled on a specific site.

39
40 *Drive-In Restaurant.* A restaurant or refreshment stand which has one or more of the following:

- 41
42 1. No inside tables or counters for customer eating.
43
44 2. Carhop service for parked vehicles in specially equipped stalls for this purpose.
45

**CONTINUATION PAGE 7 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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- 1 3. Outside tables which are not completely surrounded by a building or fence at least six
2 feet high.

3
4 *Drive-Thru Restaurant.* A restaurant or refreshment stand which has:

- 5
6 1. An outside menu board for ordering and a pickup window for picking up an order. The
7 food is consumed off the premises.
8 2. Inside tables or counters for customer convenience.

9
10 *Dwelling Unit.* A room or suite of rooms with kitchen and bath facilities designed as a unit for
11 occupancy by one family.

12
13 *Established Urban Area.* An area designated "Established Urban" on the Albuquerque/Bernalillo
14 County Comprehensive Plan Map.

15
16 *Extraterritorial Area or Zone* means the land within unincorporated Bernalillo County also
17 within five miles of the boundaries of the City of Albuquerque.

18
19 *Extraterritorial Land Use Authority.* The board made of City and County elected officials
20 responsible for planning, platting and zoning in the extraterritorial area.

21
22 *Extraterritorial Land Use Commission.* The advisory board to the Extraterritorial Land Use
23 Authority made up of city and county planning commissioners responsible for review of
24 planning, platting and zoning requests and recommendations on such requests to the
25 Extraterritorial Land Use Authority.

26
27 *Family.* Any individual or two or more persons related by blood, marriage, adoption or legal
28 assignment, along with as many as three persons not so related; or a group of not more than five
29 persons not related by blood or marriage, living together in a dwelling unit.

30
31 *Family Day Care Home.* An occupied dwelling in which a person provides care, services, and
32 supervision for at least three but not more than six children for a period less than 24 hours of any
33 day. The residents providers children who are age six or older shall not be counted for this
34 definition.

35
36 *Feedlot.* A place of confinement for cattle, sheep or swine, corralled, penned, or otherwise
37 caused to remain in pens or corrals where feeding is other than grazing and which is operated as
38 a commercial enterprise as the primary use.

39
40 *Floor Area.* The gross horizontal areas of the several floors including basement, cellars, and
41 penthouses (but excluding such areas within a building which are used for parking), measured
42 from the exterior faces of the exterior walls of a building.

43
44 *Floor Area Ratio.* The total amount of heated floor area within dwelling units divided by the area
45 of the site.

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1
2 *Frontage.* The distance along a street line from one intersecting street to another, or from one
3 intersecting street to the dead end of a dead-end street.

4
5 *Future Street Line.* A line running more or less parallel to the center line of certain existing or
6 proposed streets as established by the county for the purpose of delineating the future widths of
7 street rights-of-way.

8
9 *Garage, Private.* A detached accessory building or portion of a main building housing the
10 automobiles of the occupants.

11
12 *Garage, Public.* A building or portion thereof, other than a private garage, designed or used for
13 equipping, servicing, repairing, hiring, selling, storing, or parking motor-driven vehicles. The
14 term "repairing" shall not include the dismantling, or storage of wrecked or junked vehicles.

15
16 *Grade.* The average of the finished ground level at the center of all walls of a building. In case
17 the walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at
18 the sidewalk or at the center of such wall nearest the sidewalk.

19
20 *Group Home.* A residence providing full-time supervision and training in daily living activities
21 to six residents other than family; no infant care is provided.

22
23 *Guest Ranch.* A resort providing recreation and entertainment to vacationers.

24
25 *Home Occupation.* Any occupation or activity clearly incidental and secondary to use of the
26 premises for a dwelling. There shall be no exterior display, no exterior storage of materials, no
27 nuisances emitted from the premises and no other exterior indication of the home occupation or
28 variation from the residential character of the main building. Only members of the residing
29 family are employed. Not more than 25 percent of the floor area is devoted to the home
30 occupation, nor more than 600 square feet of accessory building.

31
32 *Hospital for Human Beings.* An establishment that provides through an organized medical staff
33 and permanent facilities that include inpatient beds, medical services, and continuous licensed
34 professional nursing services, diagnosis and treatment, both surgical and nonsurgical, for patients
35 who have any of a variety of medical conditions, including mental illness. A facility licensed by
36 the State of New Mexico as a general, limited, or special hospital is presumed to be a hospital for
37 human beings.

38
39 *Hotel.* A building in which lodging, or boarding and lodging, are [is] provided and offered to the
40 public for compensation, and in which ingress and egress to and from all rooms is made through
41 an inside lobby or office supervised by a person in charge at all times. As such, it is open to the
42 public in contradistinction to a boardinghouse, a lodginghouse, or an apartment house, which are
43 herein separately defined.

44

**CONTINUATION PAGE 9 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
ZONE MAP FOR THE EXTRATERRITORIAL AREA OF ALBUQUERQUE AND
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1 *Incidental Use.* A use which is appropriate, subordinate, and customarily incidental to the main
2 use of the lot.

3
4 *Inoperative Vehicle.* A vehicle which is not parked inside a building, is inoperative, and is
5 wholly or partially dismantled.

6
7 *Institution.* A nonprofit establishment for public use.

8
9 *Landscape Buffer.* A strip of landscaped land established by the Landscaping and Buffer
10 Landscaping Regulations to protect one type of land use from another with which it is
11 incompatible. Landscape Plan. An accurate plan, drawn to scale, which outlines all proposed
12 areas to be covered with impervious materials, proposed planting beds and vegetative ground
13 cover area; specifies the location, size and species of all proposed trees and shrubs.

14
15 *Landscaped Setback.* The planting of at least one tree, 1 1/2-inch minimum caliper measured at
16 two feet above ground, per 30 linear feet of frontage and at least 75 percent of the area must be
17 planted and maintained with live planting material.

18
19 *Landscaping.* The planting and maintenance of live plants and inorganic and manufactured
20 materials including trees, shrubs, ground cover, flowers, or other low-growing plants that are
21 native or adaptable to the climatic conditions of Bernalillo County. In addition, the landscape
22 design may include limited inorganic and manufactured materials such as rocks, fountains,
23 reflecting pools, works of art, screens, walls, fences, benches and other types of street furniture.

24
25 *Ldn.* Ldn means day/night equivalent sound level measured over a 24-hour period; it is
26 equivalent in terms of sound energy to the level of a continuous A-weighted sound level with ten
27 dB added to the nighttime levels. Ldn is computed pursuant to United States Environmental
28 Protection Agency Standards and Procedures.

29
30 *Living Quarters, Accessory.* Living quarters within an accessory building containing one
31 bedroom, one living room, one bathroom, one closet, one mechanical room, no kitchen facilities
32 and to be occupied by no more than two persons, shall not be rented or otherwise used as a
33 dwelling unit and does not exceed 500 square feet in area.

34
35 *Lot.*

- 36
37 a. A tract or parcel of land platted and placed on the County Clerk's record in accordance
38 with laws and ordinances; or
39
40 b. A tract or parcel of land held in separate ownership as shown on the records of the
41 County Clerk, prior to April 17, 1973, date of passage of the Bernalillo County
42 Commission Ordinance No. 213.

43
44 *Lot Area.* The area of a lot exclusive of easement(s) for a private way or thoroughfare.
45

**CONTINUATION PAGE 10 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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1 *Lot, Corner.* A lot abutting two or more streets at their intersection.

2
3 *Lot, Depth.* The mean horizontal distance between the front and rear lot lines.

4
5 *Lot, Double Frontage.* Any lot with frontage on two parallel or approximately parallel streets.

6
7 *Lot, Front Line of.* The boundary of a lot bordering on a street. For the purpose of determining
8 yard requirements on a corner lot, the narrower side bordering on a street is the front yard except
9 that if the lot is square or nearly so (dimensions with a ratio of between 3:2 and 3:3), the owner
10 may choose which of the two is to be considered the front yard.

11
12 *Lot, Rear Line of.* That boundary which is opposite and more or less parallel to the front lot line.
13 In the case of an L-shaped or other irregularly-shaped lot where two or more lines are so located,
14 all shall be considered to be rear lines, except such as may be within 50 feet of the front lot line,
15 or which may be 20 feet or less in length. In the case of a lot which comes to a point at the rear,
16 the rear lot line shall be that imaginary line parallel to the front lot line, not less than ten feet
17 long, lying wholly within the lot farthest from the front lot line.

18
19 *Lot, Width.* The width of a lot at the front yard setback line.

20
21 *Manufactured Home.* A manufactured home or modular home that is a single-family dwelling
22 with a heated area of at least 36 by 24 feet and at least 864 square feet, constructed in a factory to
23 the standards of the United States Department of Housing and Urban Development, the National
24 Manufactured Housing Construction and Safety Standards Act of 1974 (42 USC 5401 et seq.)
25 and the Housing and Urban Development Zone Code II or the Uniform Building Code, as
26 amended to the date of the unit's construction, and installed consistent with the Manufactured
27 Housing Act (NMSA 1978, § 60-14-1 et seq.) and with the regulations made pursuant thereto
28 relating to ground level installation and ground anchors.

29
30 *Medical Clinic.* An establishment where patients are not lodged overnight, but are admitted for
31 examination and treatment by a group of physicians or dentists practicing together.

32
33 *Mobile Home.* A vehicle without motive power, designed to be drawn by a motor vehicle and to
34 be used as a temporary or permanent human habitation, including trailer coach, trailer home,
35 mobile home and house trailer, whether the same be with or without wheels, and whether or not
36 attached to or incorporated in a building and that part of any self-propelled vehicle, or removed
37 therefrom, whether the same be with or without wheels, and whether or not attached to or
38 incorporated in a building. Skirting is required in addition to a storage building of sufficient size
39 to accommodate all outside storage.

40
41 *Mobile Home Park.* Any lot on which two or more mobile homes are used for human habitation,
42 except as otherwise provided for in the A-1 and A-2 zones.

43
44 *Mobile Home Space.* An improved area within an approved mobile home park designated for the
45 placement of a mobile home.

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1
2 *Motel.* Any building or group of buildings containing guest rooms or dwelling units, some or all
3 of which have a separate entrance leading directly from the outside of the building with a garage
4 or parking space conveniently located on the lot, and designed, used, or intended wholly or in
5 part for the accommodation of automobile transients. The term "motel" includes motor court,
6 motor lodge, and tourist court, but not mobile home park.

7
8 *Nonconforming.* Any building or structure or portion thereof, or use of a building or land which
9 does not conform to the zoning regulations and which lawfully existed on the effective date of
10 those regulations with which it does not conform.

11
12 *Nonprofit Animal Facility.* Any facility or premises, not operating for profit, where six or more
13 dogs and/or cats or aggregate thereof, over four months of age are kept or maintained; it includes
14 shelters and refuges, with the exception of state inspected veterinary hospitals, federally
15 inspected laboratory facilities and zoos.

16
17 *Nursing or Rest Home.* A home for the aged or infirm in which three or more persons not of the
18 immediate family are received, kept or provided with food and shelter or care, for compensation,
19 but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and
20 treatment of the sick or injured.

21
22 *Office.* A place where consulting, record keeping, the work of a professional person such as a
23 physician or lawyer or a headquarters of an enterprise or organization; with incidental sales of
24 goods or services.

25
26 *Open Storage.* Storage of any material, equipment or item outside an enclosed building.

27
28 *Parking Lot.* An area or structure used for temporary parking of automobiles and pickup-sized
29 trucks, providing four or more parking spaces, not within the public right-of-way, none of which
30 are required off-street parking.

31
32 *Parking Space, Off-Street.* An area at least eight feet, six inches in width and 20 feet in length,
33 not permanently reserved, for the intermittent storage of one automobile and connected to a
34 street or alley by a driveway which affords ingress and egress for an automobile without
35 requiring another automobile to be moved.

36
37 *Permissive Use.* A use permitted in a zone.

38
39 *Person.* Any individual, firm, co-partnership, joint venture, association, social club, fraternal
40 organization, corporation, estate, trust, business trust, receiver, syndicate, political subdivision,
41 or other group or combination, acting as a unit.

42
43 *Planning Department.* The designated staff assigned to the Extraterritorial Authority.
44

**CONTINUATION PAGE 12 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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1 *Planning Department Director.* The Director of the Bernalillo County Zoning, Building and
2 Planning Department.

3
4 *Premises.* A lot, together with all buildings and structures thereon.

5
6 *Public Right-of-Way.* The area of land deeded, reserved by plat, or otherwise acquired by the
7 City, the County, or the State of New Mexico, primarily for the use of the public, for utilities,
8 and the movement of people, goods, and vehicles.

9
10 *Recreational Camp.* An institution devoted primarily to outdoor activities.

11
12 *Recreational Vehicle.* A vehicular unit not exceeding 40 feet in body length, eight feet in width,
13 or 11 feet in overall height, primarily designed as a temporary living quarters for recreational,
14 camping, or travel use; it either has its own motive power or is designed to be mounted on or
15 drawn by an automotive vehicle. Recreational vehicle includes motor home, truck camper, travel
16 trailer, and camping trailer.

17
18 *School.* A place utilized by an organized body to educate, cultivate, or advance mentally or
19 culturally, i.e.: private or public school, academies, universities, day care centers, instructions in
20 crafts, fine art, dance, music, etc.

21
22 *Semi-Urban Area.* An area designated "Semi-Urban" on the Albuquerque/Bernalillo County
23 Comprehensive Plan Map.

24
25 *Service Station.* Any land, building, structure, or premises used for the retail sale of motor
26 vehicle fuels, oil or accessories, or for servicing or lubricating motor vehicles or installing or
27 repairing parts and accessories, but not including the repairing or replacing of motors, bodies, or
28 fenders of motor vehicles, or painting motor vehicles.

29
30 *Setback.* The shortest distance between a structure and the present or future street line or property
31 line, or right-of-way line of private access road.

32
33 *Shopping Center.* A premises containing a group of commercial retail and service establishments
34 located in a complex containing five or more acres.

35
36 *Sign.* An identification, description, illustration, or device which is affixed to or represented
37 directly or indirectly upon a building, structure, or land, and which directs attention to a product,
38 place, activity, person, institution, or business. A back to back sign or V-shaped sign or a
39 billboard constitutes one sign if it employs a common set of supports and if the signs are at some
40 point within ten feet of each other.

41
42 *Sign, Off-Premises.* A sign which directs attention to a product, place, activity, person, institution
43 or business not located on the site where the sign is located, including portable signs.

44

**CONTINUATION PAGE 13 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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1 *Sign, On-Premises.* A sign which directs attention to a product, place, activity, person, institution
2 or business on the site where the sign is located, including portable signs.

3
4 *Single-family Dwelling.* A building designed to be occupied by one family and containing at least
5 one kitchen, including manufactured homes and or prefabricated, modular or sectional units
6 meeting the requirements of the Bernalillo County Building Code, designed to be permanent
7 structures, placed upon permanent foundations, and taxed as real estate.

8
9 *Site Development Plan.* A plan, to scale, showing all existing and proposed development for a
10 parcel of land (e.g. buildings, landscaping, parking, storm drainage facilities, signs) and schedule
11 of development.

12
13 *Solid Wall or Fence.* A wall, fence or similar enclosure which is visually solid and is kept in
14 good repair. It may include evergreen hedges, trees planted six feet or less apart depending on
15 the type of trees, decorative walls which may have openings and provided the total area of all the
16 openings in such walls does not exceed 25 percent of the total area of the surface of these walls
17 and further provided these openings are evenly distributed over the entire surface of such walls.

18
19 *Stand.* A structure for display and sale of products with no space for customers within the
20 structure itself.

21
22 *Story.* That portion of a building, other than a basement, included between the surface of any
23 floor and the surface of the floor next above it; or, if there be no floor above it, then the space
24 between such floor and the ceiling next above it.

25
26 *Street.* That portion of a public right-of-way or private way or thoroughfare which is primarily
27 devoted to vehicular use. Such right-of-way or thoroughfare normally shall provide access to
28 abutting property.

29
30 *Structural Alterations.* Any change except those required by law or ordinance, which would
31 prolong the life of the supporting members of a building or structure, such as bearing walls,
32 columns, beams or girders, not including openings in bearing walls as permitted by other
33 ordinances.

34
35 *Structure.* Anything constructed or erected, the use of which requires permanent location on the
36 ground or attached to something having a permanent location on the ground, including, but
37 without limiting the generality of the foregoing, advertising signs, billboards, backstops for
38 tennis courts, and pergolas, but not including tents or vehicles.

39
40 *Truck Plaza.* A site in excess of two acres providing specialized facilities for retail fueling
41 services for large trucks; the site may include related facilities including, but not limited to,
42 restaurants and overnight parking.

43

**CONTINUATION PAGE 14 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
ZONE MAP FOR THE EXTRATERRITORIAL AREA OF ALBUQUERQUE AND
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1 *Truck Terminal.* A property or building used primarily for the temporary parking of trucks of
2 common or contract carriers during loading or unloading, including necessary warehouse space
3 for storage of transitory freight.

4
5 *Urgent Care Center.* See Medical Clinic.

6
7 *Usable Open Space.* An area on the same lot with a dwelling, in relation to which it serves to
8 permanently provide light and air, as well as visual, psychological, and recreational needs for
9 open space. Usable open space may include, but is not limited to, lawns, decorative plantings,
10 native plants, open balconies, covered patios open on at least two sides, walkways, active and
11 passive recreational areas, fountains, swimming pools, wooded areas, and water courses. Usable
12 open space does not include public right-of-way, parking lots, off-street parking, driveways,
13 other private vehicular surfaces, or buildings other than swimming pool rooms. Such space shall
14 be available for entry and use by the residents involved.

15
16 *Variance.* A discretionary waiver from the zoning requirements to grant the property owner
17 reasonable use of his land.

18
19 *Vision Clearance.* A triangular space at the street corner of a corner lot, which is bounded by the
20 street right-of-way lines and a line connecting points located 25 feet distant from the intersection,
21 or projected intersection, of the street right-of-way lines, within which no obstruction to view
22 between three feet and eight feet above the street level shall be placed or maintained.

23
24 *Yard.* An open space, other than a court, on a lot, unoccupied and unobstructed from the ground
25 upward, except as otherwise provided in this ordinance.

26
27 *Yard, Front.* An open area, extending across the full width of a lot, the depth of which is the
28 shortest distance between the front lot line and the front wall of the main building.

29
30 *Yard, Rear.* An open area, extending across the full width of a lot, the depth of which is the
31 shortest distance between the rear wall of the main building and the rear lot line.

32
33 *Yard, Side.* An open area between the side lot line and the side of the main building, extending
34 from the front yard to the rear yard.

35
36 *Zone Map/Zone atlas.* The map delineating the zone boundaries.

37
38 *Zoning Administrator.* The Bernalillo County official designated to enforce this ordinance as
39 provided in the Administrative Section of this ordinance.

40
41 *Zoning Certificate.* The certificate required in Paragraph 3 of the Administrative Section,
42 Subsection C hereof.

43
44 *Zoning Commission..* The Extraterritorial Land Use Commission.

45

**CONTINUATION PAGE 15 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
ZONE MAP FOR THE EXTRATERRITORIAL AREA OF ALBUQUERQUE AND
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Zoning Director. The director of the County Building, Planning and Zoning Department.

Section 6. Zones.

A. In order to carry out the provisions of this ordinance, the Extraterritorial Area is hereby divided into 12 zones, which shall be known as:

- A-1 Rural Agricultural Zone
- A-2 Rural Agricultural Zone
- R-1 Single-Family Residential Zone
- R-2 Apartment Zone
- M-H Mobile Home and Single-Family Residential Zone
- O-1 Office and Institutional Zone
- C-N Neighborhood Commercial Zone
- C-1 Neighborhood Commercial Zone
- C-2 Community Commercial Zone
- M-1 Light Industrial Zone
- M-2 Heavy Manufacturing Zone
- Overlay Zone

B. The zones and boundaries of zones are shown on the maps attached hereto and made a part of this ordinance. The maps shall be designated as the "Zone Maps." All notations and reference shown on the "Zone Maps" are as much a part of this ordinance as though specifically described herein.

1. The zone boundaries are either streets or alleys unless otherwise shown, and where the designation on the "Zone Map" indicates that the various zones are approximately bounded by a street or alley line, such street or alley line shall be construed to be the zone boundary line. In case of any uncertainty, the matter shall be referred to the Extraterritorial Land Use Commission.
2. Where the zone boundaries are not otherwise indicated and where the property has been divided into blocks and lots, the zone boundaries shall be construed to be lot lines and where the designations on the "Zone Maps" are approximately bounded by lot lines, said lot lines shall be construed to be the boundary of the zone. In case of any uncertainty, the matter shall be referred to the Extraterritorial Land Use Commission.
3. In subdivided property, the zone boundary lines shown on the "Zone Maps" shall be determined by use of the scale shown on such map.
4. In the event any street, alley, drainageway, or other public way forming the boundary of a zone is vacated, the new zone boundary shall be the former centerline of said vacated street, alley, drainageway, or other public way.

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C. All territory which may hereafter become a part of the unincorporated area of Bernalillo County by disincorporation of any village, town, or city, or which for other reasons may fall within the jurisdiction of the Extraterritorial Land Use Authority, shall automatically be classified in the A-1 Zone until appropriately reclassified in accordance with the provisions of the Amendments Section of this ordinance.

D. In the event the Zone Maps do not show the zoning of any land within, the Extraterritorial area such land automatically shall be classified in the A-1 zone.

E. All property is governed according to the zone in which it is located. Any use not designated a permissive or conditional use in a zone is specifically prohibited from that zone, except as otherwise provided herein.

Section 7. A-1 Rural Agricultural Zone.

A. The regulations set forth in this section or set forth in this ordinance, when referred to in this section, are the regulations in the A-1 Rural Agricultural Zone. The purposes of this zone are to preserve the scenic and recreational values in the National Forests and similar adjoining land, to safeguard the future water supply, to provide open and spacious development in areas remote from available public services, and to recognize the desirability of carrying on compatible agricultural operations and spacious home developments in areas near the fringes of urban development. The regulations provide for the protection of these important land uses, and are not intended to unduly restrict or regulate farming, or ranching operations.

B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site.

1. Permissive Uses:

- a. Ranch, farm, dairy, and rural residential activities.
- b. Display and sale of agricultural products including poultry or rabbits raised on the premises, and products incidental to the sales activity.
- c. One single-family dwelling or H.U.D. Zone Code II manufactured home per lot of record.
- d. Accessory building or structure customarily incidental to the above uses.
- e. Recreational vehicle or boat storage in the rear yard when such recreational vehicle or boat is not to be used as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Such units cannot be used for storage of goods, materials, or equipment other than those items considered to be a part of the unit or essential for its immediate use. Recreation vehicle used for dwelling purposes

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served only by electricity for lighting purposes, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year.

(1) In the event where rear yard access is not available, outside parking in the front yard is allowed, provided:

(a) The body of the recreational vehicle or boat is at least 11 feet from the front property line.

(b) No part of the unit extends onto the public right-of-way.

(c) A corner lot is always deemed to have reasonable access to the rear yard; a fence or wall is not necessarily deemed to prevent reasonable access.

f. Signs not exceeding 16 square feet in area per sign pertaining to the lease, hire or sale of a premises or sale of home-raised products, provided there shall be no more than one such sign per acre of lot area, and provided further that, if illuminated, the source of such illumination shall be nonoscillating and nonflashing.

g. Parking incidental to uses permitted in this zone, provided all vehicles parked are in operative condition.

h. Home occupation.

2. Conditional Uses. The following uses may be permitted, if approved by the Zoning Administrator, in accordance with the procedures and under the conditions set out in the Administrative Section of this ordinance, with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and the community.

a. Church and incidental facilities.

b. Day Care Center.

c. Family Day Care Home.

d. School.

e. Temporary festivals, circuses, carnivals or activities in a tent, provided that the use or activity meets the following requirements:

(1) The minimum lot size per use or activity shall be five acres.

(2) All required parking shall be located on the same site with the activity or use.

**CONTINUATION PAGE 18 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
ZONE MAP FOR THE EXTRATERRITORIAL AREA OF ALBUQUERQUE AND
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- (3) The use or activity shall be at least two miles from the nearest conforming residential use.
 - (4) Prior approval of the proposed use or activity must be obtained from the County Sheriff, County Fire Department, County Environmental Health, County Public Works, City of Albuquerque Air Pollution Control, and Albuquerque Metropolitan Arroyo Flood Control Authority or their authorized representative.
 - (5) The hours of operation, shall be between 6:00 a.m. and 8:00 p.m. This includes the time of erection and dismantling.
 - (6) The use or activity shall be limited to three days in one calendar year.
 - (7) No permanent structures shall be erected.
 - (8) Temporary fencing may be erected, and shall be removed within 24 hours after the activity.
- f. Commercial stables, rodeo arenas, polo grounds, and riding academies.
 - g. Privately or commercially operated recreational camps, lakes, swimming pools, and tennis courts.
 - h. Guest ranch and incidental facilities, including stables, corrals, swimming pools, restaurants, incidental retail sales and services and personal services provided such ranches are located on sites containing not less than 20 acres.
 - i. Hunting, fishing, ski resorts, and incidental facilities, provided they are located on sites containing not less than 20 acres.
 - j. Kennels, animal hospitals, or the breeding, boarding or sale of dogs, cats, and birds.
 - k. Commercial animal establishment and nonprofit animal facility.
 - l. Real estate sales office in connection with a specific development for a period of not more than two years.
 - m. Temporary sawmill and logging camp, when located not less than 1,000 feet from any public highway, dwelling, or public recreational area.
 - n. Temporary storage building or yard for equipment, material, or activity incidental to a specific construction project but not to exceed one year, unless the time is extended by the Zoning Administrator.

**CONTINUATION PAGE 19 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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- o. One mobile home per acre or per lot of record used as a one-family dwelling, provided that where two or more mobile homes are located on one lot, they must be clearly incidental to a use listed under Section 7.B.1.a. or as provided in Section 7.B.2.p.
 - p. One mobile home for a three-year period in addition to an existing single-family dwelling or mobile home on a lot provided it complies with the following requirements:
 - (1) The mobile home may be used only by members of the immediate family for the purpose of providing assistance to those members of the family who are elderly, ill, or mentally or physically disabled as attested by a licensed physician.
 - (2) The mobile home shall be connected to water and sewage disposal facilities approved by the Department of Environmental Health.
 - (3) The mobile home must be placed on the property in conformance with the setback requirements and located at least 15 feet from any structures on the same or on adjoining property.
 - (4) Placement of a mobile home on the property will not seriously conflict with the character of the area or be detrimental to the values of surrounding properties.
 - C. Height Regulations. Buildings and structures shall not exceed 26 feet or 2 1/2 stories in height, except as provided in the Supplementary Height and Area Regulation Section of this ordinance.
 - D. Area Regulations:
 1. Minimum Lot Area and Lot Width. Every lot shall have an area of not less than one acre and an average width of not less than 150 feet.
 2. Setbacks. Minimum front yard setback shall be 25 feet, minimum side yard shall be ten feet, and the minimum rear yard shall be 25 feet, except as provided in the Supplementary Height and Area Regulations Section of this ordinance.
 3. On any lot occupied by a mobile home, there shall be a side yard on each side of the mobile home of 15 feet in width and in no instance shall a mobile home be located nearer than 15 feet to an accessory building.
 - E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in the Off-Street Parking, Loading and Unloading Regulations Section of this ordinance.
- Section 8. A-2 Rural Agricultural Zone.

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- 1
2 A. The regulations set forth in this section or set forth in this ordinance, when referred to in this
3 section, are the regulations in the A-2 Rural Agricultural Zone. The purposes of this zone are
4 to preserve the scenic and recreational values in the National Forests and similar adjoining
5 land, to safeguard the future water supply, to provide open and spacious development in
6 areas remote from available public services and to recognize the desirability of carrying on
7 compatible agricultural operations and spacious home developments in areas near the fringes
8 of urban development.
9
10 B. Use Regulations. A building or premises shall be used only for the following purposes. All
11 uses customarily incidental to the building or premises shall be maintained on site:
12
13 1. Permissive Uses:
14
15 a. Uses permissive in the A-1.
16
17 2. Conditional Uses:
18
19 a. Uses conditional in the A-1 zone as listed under Section 7.B.2., a. through p.
20
21 b. One mobile home for a three-year period in addition to an existing single-family
22 dwelling or mobile home on a lot of less than four acres, provided it complies with
23 the following requirements:
24
25 (1) The mobile home may be used only by members of the immediate family for the
26 purpose of providing assistance to those members of the family who are elderly,
27 ill, or mentally or physically disabled as attested by a licensed physician.
28
29 (2) The mobile home shall be connected to water and sewage disposal facilities
30 approved by the Department of Environmental Health.
31
32 (3) The mobile home must be placed on the property in conformance with the setback
33 requirements and located at least 15 feet from any structures on the same or on
34 adjoining property.
35
36 (4) Placement of a mobile home on the property will not seriously conflict with the
37 character of the area or be detrimental to the values of surrounding properties.
38
39 C. Height Regulations. Buildings and structures shall not exceed 26 feet or 2 1/2 stories in
40 height, except as provided in the Supplementary Height and Area Regulation Section of this
41 ordinance.
42
43 D. Area Regulations:
44

**CONTINUATION PAGE 21 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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1. Minimum Lot Area and Lot Width. Every lot shall have an area of not less than two acres and an average width of not less than 150 feet.
2. Setbacks. Minimum front yard setback shall be 25 feet, minimum side yard shall be ten feet, and the minimum rear yard shall be 25 feet, except as provided in the Supplementary Height and Area Regulation Section of this ordinance.
3. On any lot occupied by a mobile home, there shall be a side yard on each side of the mobile home of 15 feet in width and in no instance shall a mobile home be located nearer than 15 feet to an accessory building.

E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulation set forth in the Off-street Parking, Loading and Unloading Regulations Section of this ordinance.

Section 9. R-1 Single-Family Residential Zone.

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the R-1 Residential Zone. The purpose of this zone is to provide for the development of single-family homes on lots not less than three-quarters [of an] acre in area, except that where community water and sewer facilities are made available, the lot size may be reduced consistent with development densities in the Albuquerque/Bernalillo County Comprehensive Plan. The regulations provide for the health, safety and welfare of the residents.

B. Use Regulations. A building or premises shall be used only for the following purposes, all uses customarily incidental to the building or premises shall be maintained on site:

1. Permissive Uses:

- a. Agricultural activity, including truck gardening and nurseries, fur bearing animal farm, the raising of poultry or rabbits, dairy farming, livestock grazing, feeding, and the raising of livestock on lots containing three acres or more. On lots of less than three acres, there shall be at least 10,000 square feet of lot area for each cow or horse, and/or at least 4,000 square feet of lot area for each sheep, pig, or goat, provided that any building, pen, or corral where such animal is located is at least 20 feet from any existing dwelling unit. Stands for the display or sale of home-raised agricultural products, including poultry or rabbits raised on the premises.
- b. One single-family dwelling or H.U.D. Zone Code II manufactured home per lot.
- c. Accessory building, structure, or use customarily incidental to the above uses, such building or structure shall be limited to an area of 600 square feet or less.
- d. Noncommercial library, museum, and art gallery.

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e. Recreational vehicle or boat storage in the rear yard when such recreational vehicle or boat is not to be used as accessory living quarters, and is not connected to utilities, other than temporarily to a source of electricity. Recreational vehicle used for dwelling purposes served only by electricity for lighting purposes, the use of such recreational vehicle shall be limited to a maximum of two weeks in any calendar year.

1. In the event where rear yard access is not available, outside parking in the front yard is allowed, provided:

(a) The body of the recreational vehicle or boat is at least 11 feet from the front property line.

(b) No part of the unit extends onto the public right-of-way.

(c) A corner lot is always deemed to have reasonable access to the rear yard; a fence or wall is not necessarily deemed to prevent reasonable access.

f. Signs not exceeding eight square feet in area pertaining to the lease, hire, or sale of a premises or sale of home-raised products, provided there shall be no more than one such sign on each lot and provided further that, if illuminated, the source of such illumination shall be nonoscillating and nonflashing.

g. Parking incidental to uses permitted in this zone, provided all vehicles which are not parked inside a building are operative and are not wholly or partially dismantled.

h. Home occupation.

2. Conditional Uses. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set out in the administrative Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and the community.

a. Accessory building or structure in excess of 600 square feet in area and incidental to the uses listed under Section 7.B.1. and 7.B.2.

b. Church and incidental facilities.

c. School.

d. Day Care Center.

e. Family Day Care Home.

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- 1 f. Temporary festivals, circuses, carnivals or activities in a tent, provided that the use or
2 activity meets the following requirements:
3
4 (1) The minimum lot size per use or activity shall be five acres.
5
6 (2) All required parking shall be located on the same site with the activity or use.
7
8 (3) The use or activity shall be at least two miles from the nearest conforming
9 residential use.
10
11 (4) Prior approval of the proposed use or activity must be obtained from the County
12 Sheriff, County Fire Department, County Environmental Health, County Public
13 Works, City of Albuquerque Air Pollution Control, and Albuquerque
14 Metropolitan Arroyo Flood Control Authority or their authorized representative.
15
16 (5) The hours of operation, shall be between 6:00 a.m. and 8:00 p.m. This includes
17 the time of erection and dismantling.
18
19 (6) The use or activity shall be limited to three days in one calendar year.
20
21 (7) No permanent structures shall be erected.
22
23 (8) Temporary fencing may be erected, and shall be removed within 24 hours after
24 the activity.
25
26 g. Real estate sales office and real estate signs exceeding the limitations in Subsection
27 8.B.(1).f. above in connection with a specific development for a period of not more
28 than two years.
29
30 h. Recreational facility (nonprofit) such as swimming pools or tennis clubs on sites
31 containing not less than one acre.
32
33 i. Temporary storage building or yard for equipment, material or activity incidental to a
34 specific construction project but not to exceed one year, unless the time is extended
35 by the Zoning Administrator.
36
37 j. Mobile home used as a dwelling (with connections to any utilities) during
38 construction of a dwelling on the same premises, provided such use shall be limited to
39 a maximum period of 24 months.
40
41 k. One mobile home for a three-year period in addition to an existing single-family
42 dwelling or mobile home on a lot provided it complies with the following
43 requirements:
44

**CONTINUATION PAGE 24 COMPREHENSIVE ZONING REGULATIONS AND ADOPTING A
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(1) The mobile home may be used only by members of the immediate family for the purpose of providing assistance to those members of the family who are elderly, ill, mentally or physically disabled as attested by a licensed physician.

(2) The mobile home shall be connected to water and sewage disposal facilities approved by the Department of Environmental Health.

(3) The mobile home must be placed on the property in conformance with the setback requirements and located at least 15 feet from any structures on the same or on adjoining property.

(4) Placement of a mobile home on the property will not seriously conflict with the character of the area or be detrimental to the values of surrounding properties.

1. Nonprofit animal facility.

C. Height Regulations. Buildings and structures shall not exceed 26 feet or 2 1/2 stories in height, except as provided in The Supplementary Height and Area Regulations Section of this ordinance.

D. Area Regulations:

1. Minimum Lot Area and Lot Width. Every lot shall have a minimum area of not less than three-quarters [of an] acre and a minimum lot width of 60 feet, except that where community water and sewer facilities are available, the lot area may be decreased to 8,000 square feet if located in the Developing, Established or Central Urban Areas, or 14,520 square feet if located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan.

2. Front Yard.

a. There shall be a front yard having a depth of not less than 20 feet except as provided in the Supplementary Height and Area Regulations Section of this ordinance.

b. Where lots have double frontage, the required front yard shall be provided on both streets.

3. Side Yard:

a. Except as hereinafter provided in the following paragraph and in the Supplementary Height and Area Regulations Section of this ordinance, there shall be a side yard on both sides of a building the aggregate width of which shall be not less than 14 feet, provided, however, that neither such yard shall be less than six feet in width.

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b. Wherever a lot of record, at the effective date of this ordinance, has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than three feet.

4. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulations Section of this ordinance, there shall be a rear yard having a depth of not less than 15 feet.

E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in the Off-street Parking, Loading and Unloading Regulations Section of this ordinance.

Section 10. R-2 Apartment Zone.

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the R-2 Apartment Zone. The purpose of this zone is to permit in appropriate areas a higher density of population than in one-family zones and still maintain a residential environment.

B. Use Regulations. A building or premises shall be used only for the following purposes, all uses customarily incidental to the building or premises shall be maintained on site:

1. Permissive Uses:

a. Any Permissive Use permitted in the R-1 Residential Zone.

b. Apartments.

2. Conditional Uses. The following uses may be permitted if approved by the Zoning Administrator, in accordance with the procedures and under the conditions set out in the Administrative Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood, and the community.

a. Any Conditional Use permitted in the R-1 Residential Zone.

b. Fraternity or sorority house.

c. Boardinghouse.

C. Height Regulations. Structures may exceed 26 feet in height, but any portion of a structure which exceeds 26 feet in height may not exceed a plane drawn at a 45 degree angle from the horizontal from the ground level of land zoned A-1, A-2, R-1, or M-H, which is unimproved or is improved with a conforming Permissive Use.

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D. Area Regulations:

1. Minimum Lot Area and Lot Width. The minimum lot area shall be 8,000 square feet and the minimum lot width shall be 60 feet, provided community water and sewer facilities are made available. If community utilities are not available, then the minimum lot size shall be three-quarters [of an] acre per dwelling unit.
2. Front Yard:
 - (a) There shall be a front yard having a depth of not less than 20 feet, except as provided in the Supplementary Height and Area Regulations Section of this ordinance.
 - (b) Where lots have double frontage, the required front yard shall be provided on both streets.
3. Side Yard:
 - (a) Except as hereinafter provided in the following paragraph and in the Supplementary Height and Area Regulation Section of this ordinance, there shall be a side yard on both sides of a building the aggregate width of which shall be not less than 14 feet; provided, however, that neither side yard shall be less than six feet in width.
 - (b) Wherever a lot of record, at the effective date of this ordinance, has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than three feet.
4. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulations Section of this ordinance, there shall be a rear yard having a depth of not less than 15 feet.
5. Density. Every building hereafter erected or structurally altered for dwelling purposes shall comply with the following density requirements:
 - a. A floor area ratio of 0.5 is permitted provided community water and sewer facilities are made available.
 - b. If community utilities are not available, then the minimum lot area shall be three-quarters [of an] acre per dwelling unit.

E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in the Off-street Parking, Loading and Unloading Section of this ordinance.

F. Usable Open Space:

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1. Usable open space shall be provided on-site in an amount equal to 200 square feet for each efficiency or one bedroom dwelling unit, 250 square feet for each two bedroom dwelling unit, and 300 square feet for each dwelling unit containing three or more bedrooms.
2. Where an aggregate of two or more dwelling units is constructed on any given lot, the development shall plant and maintain according to the Landscaping and Buffer Landscaping Section of this ordinance.

Section 11. M-H Mobile Home and Single-Family Residential Zone.

- A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the M-H Mobile Home and Single-Family Residential Zone. The purpose of this zone is to provide for development of subdivisions or groups of contiguous parcels of land having a minimum total area of five acres or more, with a mixture of mobile homes and single-family residences on individual lots.
- B. Use Regulations. A building or premises shall be used only for the following purposes:
 1. Permissive Uses:
 - a. Any Permissive Use permitted in the R-1 Residential Zone.
 - b. One mobile home having a length of 40 feet or more per lot provided no other residence is located on the same lot.
 2. Conditional Uses. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set out in the Administrative Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and the community.
 - a. Any Conditional Use permitted in the R-1 Residential Zone.
 - b. One mobile home for a three-year period in addition to an existing single-family dwelling or mobile home on a lot, provided it complies with the following requirements:
 - (1) The mobile home may be used only by members of the immediate family for the purpose of providing assistance to those members of the family who are elderly, ill, or mentally or physically disabled as attested by a licensed physician.
 - (2) The mobile home shall be connected to water and sewage disposal facilities approved by the Department of Environmental Health.

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(3) The mobile home must be placed on the property in conformance with the setback requirements and located at least 15 feet from any structures on the same or on adjoining property.

(4) Placement of a mobile home on the property will not seriously conflict with the character of the area or be detrimental to the values of surrounding properties.

C. Height Regulations. Buildings and structures shall not exceed 26 feet or 2 1/2 stories in height, except as provided in The Supplementary Height and Area Regulation Section of this ordinance.

D. Area Regulations:

1. Minimum Lot Area and Lot Width. Every lot shall have a minimum area of not less than three-quarters [of an] acre and a minimum lot width of 60 feet, except that where community water and sewer facilities are available, the lot area may be decreased to 8,000 square feet if located in the Developing, Established or Central Urban Areas, or 14,520 square feet if located in the Semi-Urban Area of the Albuquerque/Bernalillo County Comprehensive Plan.

2. Front Yard:

a. There shall be a front yard having a depth of not less than 20 feet, except as provided in the Supplementary Height and Area Regulation Section of this ordinance.

b. Where lots have double frontage, the required front yard shall be provided on both streets.

3. Side Yard:

a. Except as hereinafter provided in the following paragraph and in the Supplementary Height and Area Regulation Section of this ordinance, there shall be a side yard on both sides of a building the aggregate width of which shall be not less than 14 feet; provided, however, that neither such yard shall be less than six feet in width.

b. Wherever a lot of record, at the effective date of this ordinance, has a width of less than 60 feet, each side yard may be reduced to a width of not less than ten percent of the width of the lot, but in no instance shall it be less than three feet.

c. On any lot occupied by a mobile home there shall be a side yard on each side of the mobile home of 15 feet in width, and in no instance shall a mobile home be located nearer than 15 feet to an accessory building.

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4. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulation Section of this ordinance, there shall be a rear yard having a depth of not less than 15 feet.

E. Parking Requirements. Off-street parking for all uses must be provided in accordance with the regulations set forth in the Off-street Parking, Loading and Unloading Regulations Section of this ordinance.

Section 12. O-1 Office and Institutional Zone.

A. The regulations set forth in this section or set forth elsewhere in this ordinance when referred to in this section, are the regulations in the O-1 Office and Institutional Zone. The purpose of this zone is to provide sites suitable for office, service, and institutional uses.

B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site:

1. Permissive Uses:

a. Any permissive use as allowed and as regulated in the R-1 Single-Family Residential Zone and the following:

(1) Antenna, up to 65 feet in height.

(2) Beauty shop, barber shop.

(3) Bed and Breakfast House.

(4) Boarding[house] and Lodginghouse.

(5) Church, or other place of worship, including the usual incidental facilities.

(6) Club, provided there is no liquor license.

(7) Group Home.

(8) Incidental uses within a building, most of which is occupied by offices and/or dwelling units, such as news, cigar or candy stand, restaurant, personal service shop, and the like, provided the incidental uses comply with the following:

(a) The use is intended primarily for the use of the occupants of the structure.

(b) At least 10,000 square feet of floor area are contained in the structure.

(c) The use is limited to a maximum of ten percent of the total floor area.

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(d) The use is so situated within the structure that it is not directly accessible from a public right-of-way.

(9) Institution, including library, museum, nursing or rest home, school, day care center, and family day care home.

(10) Medical supplies and services, such as drug prescription and supply shop, physical therapy office, or shop for fabricating and fitting prosthetic or correction devices, or medical or dental laboratory.

(11) Office.

(12) Parking lot, providing it complies with the following:

(a) If street curbs and gutters exist adjacent to the parking lot property on a side where lot egress is allowed, the surfacing shall be blacktop for the width of the egress drive(s) and shall extend inward from the property line a minimum of 25 feet along all normal lines of egress traffic flow from the lot.

(b) The lot shall have barriers which prevent vehicles from extending over the sidewalk or abutting lots, or beyond the sides of a parking structure.

(c) A solid wall or fence at least six feet high shall be erected on sides which abut or face land in a R-1, R-2, A-1, A-2, or M-H residential zone. However:

1. Such wall or fence shall be three feet high in the area within 11 feet of a public sidewalk or planned public sidewalk location.

2. If the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Administrator shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.

(d) In a parking structure there shall be a six-foot solid wall on every parking level where the structure is within 19 feet of privately owned land in a residential zone.

(e) Ingress and egress shall be designed to discourage parking lot traffic from using local residential streets for more than 150 feet, unless no reasonable alternative is available.

(f) A parking lot hereafter developed shall include landscaping planted and maintained according to a Landscaping Plan approved by the Zoning Administrator; however, the Extraterritorial Land Use Commission may

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waive this requirement where it is found not useful to achieving the intent of this ordinance.

(13) Photocopy, photography studio, (except adult photo studio).

(14) Public utility structure (such as a transformer, switching, pumping, or similar technical installation) essential to the operation of a public utility, when specifically approved through the Special Use Process by the Extraterritorial Land Use Commission.

(15) Radio or television studio.

(16) Sign provided:

(a) Location Criteria. It is located on private property and advertises, identifies, or directs to a use currently conducted on the same premises. The location of such signs must comply with the following requirements:

1. One freestanding, two-sided sign no higher than 16 feet.
2. The outer edge of a wall sign may protrude up to one foot over the property line into the public right-of-way provided the bottom edge of the sign is eight feet or more above the curb or sidewalk grade.

(b) Number of Signs. Not more than one sign is permitted for any one premises with street frontage of 50 feet or more. A composite group of small signs integrated into one framed unit shall constitute one sign.

(c) Size of Signs:

1. The total area of any one sign face shall not exceed 32 square feet.
2. The total aggregate of all faces of signs or combination of signs allowed for the property on which the use is located shall not exceed 130 square feet of sign area.
3. Business fronting on more than one street will be allowed additional square footage of sign area to the extent of 50 percent of that allowed for their main street frontage.

(d) Exceptions:

1. Signs having less than four square feet in area per sign face and manufacturer's product display racks are considered as exceptions to Subsection (16)(b) and (c) supra, provided no customer service area shall

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extend closer than ten feet to the nearest right-of-way line of a public street.

2. On-premises signs without advertising, directing on-premises customer traffic or directing to specific customer service areas, shall be allowed in excess of the number and sign face square footage limitations in Subsection (16)(b) and (c) supra, provided the aggregate area of such signs shall not exceed 20 square feet per business location.

(e) Illuminated Signs. Illuminated signs, except illuminated clocks, thermometers, and illuminated signs within a building, shall be turned off at 11:00 p.m. or closing, whichever is later. No illuminated signs shall be so located as to shine directly into adjacent conforming residential property.

(f) Blinking and Revolving Signs. No flashing, oscillating, osculating, revolving or blinking signs shall be allowed.

(g) Audible Devices. No sign shall have audible devices.

(h) Amortization. See Nonconforming Uses.

(i) Determination of Sign Size. The sign area shall be measured as follows:

1. Square or Rectangular Sign. Length times the height of the face of the sign.
2. Irregularly Shaped Sign. Area of rectangles, circles, ovals, triangles, or a combination thereof, necessary to enclose the face of the sign.
3. Sign Made of Individual Cutout Letters. Sum of the area of the rectangles or triangles necessary to enclose each letter.

2. Conditional Uses:

- a. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set forth in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and community.

(1) Antenna, over 65 feet but less than 100 feet in height.

(2) Dwelling units constituting more than 25 percent of the gross floor area of a premises.

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(3) Hospital for human beings or sanatorium, provided traffic and ambulance noise will not have an adverse effect on residences in the neighborhood.

(4) Temporary storage building or yard for equipment, material or activity incidental to a specific construction project but not to exceed one year, unless the time is extended by the Zoning Administrator.

(5) Medical clinic.

C. Height Regulations. The same regulations apply as in the R-2 Zone except as provided in the Supplementary Height and Area Regulations Section of this ordinance.

D. Area Regulations:

1. Front Yard. There shall be a front yard setback having a depth of not less than 30 feet.

2. Side Yard. No side yard is required except for buildings or parts of buildings hereafter erected or structurally altered for residential use, in which case, the side yard regulations of the R-1 zone shall apply. In all other cases, a side yard is required only on the side of a lot abutting an A-1, A-2, R-1, R-2, or M-H zone, in which case there shall be a side yard of not less than six feet.

3. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulations Section of this ordinance, there shall be a rear yard setback having a depth of not less than 15 feet.

4. Off-Street Parking Spaces, Loading and Unloading Spaces. Off-street parking spaces and loading and unloading spaces shall be provided in accordance with requirements for specific uses set forth in the Off-Street Parking, Loading and Unloading Regulations Section of this ordinance.

E. Landscape and Buffer Landscaping. As required by the Landscaping and Buffer Landscaping Section of this ordinance.

Section 13. C-N Neighborhood Commercial Zone.

A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-N Neighborhood Commercial Zone. The purpose of this zone is to provide for retail business and services serving primarily the residents of the neighborhood and to minimize any adverse effects on nearby residential development.

B. Use Regulations. A building or premises shall be used only for the following purposes:

1. Permissive Uses:

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- a. Any permissive use as allowed and as regulated in the R-1 Single-Family Residential Zone and the following:
 - (1) Art, antique or gift shop.
 - (2) Bakery goods shop or confectionery store wherein a majority of the products are sold on the premises and at retail.
 - (3) Bank.
 - (4) Beauty and barber shop.
 - (5) Book or stationery store.
 - (6) Church, including the usual incidental facilities, mission (rescue), or revival meeting place.
 - (7) Clinic.
 - (8) Drugstore.
 - (9) Feed Store (retail) provided all outside storage is enclosed by a solid wall or fence six feet high on all sides.
 - (10) Hardware Store.
 - (11) Grocery, fruit, vegetable or delicatessen store, meat market.
 - (12) Laundry, washateria, laundromat.
 - (13) Newsstand.
 - (14) Nursery or greenhouse provided all outside storage other than plant material is enclosed by a six-foot solid wall or fence on all sides.
 - (15) Office.
 - (16) Restaurant.
 - (17) Service Station, including the sale of liquefied petroleum gas for consumption but not for resale, provided it complies with the following requirements:
 - (a) Limited to two pump islands containing not more than three pumps each.

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(b) Any tube or tire repairing, minor auto repair or battery charging shall be conducted within a completely enclosed building.

(c) If any lubricating, storage or washing is done outside a building, a solid wall or fence six feet high shall be maintained between such activity and any abutting property.

(18) Sign provided:

(a) Location Criteria. It is located on private property and advertises, identifies, or directs to a use currently conducted on the same premises. The location of such signs must comply with the following requirements:

1. One freestanding, two-sided sign no higher than 16 feet.
2. The outer edge of a wall sign may protrude up to one foot over the property line into the public right-of-way provided the bottom edge of the sign is eight feet or more above the curb or sidewalk grade.

(b) Number of Signs. Not more than one sign is permitted for any one business with street frontage of 50 feet or less. Not more than two signs are permitted for any one business with more than 50 feet of street frontage. A composite group of small signs integrated into one framed unit shall constitute one sign.

(c) Size of Signs:

1. The total area of any one sign face shall not exceed 32 square feet.
2. The total aggregate of all faces of signs or combination of signs allowed for the property on which the use is located shall not exceed 130 square feet of sign area.
3. Business fronting on more than one street will be allowed additional square footage of sign area to the extent of 50 percent of that allowed for their main street frontage.

(d) Exceptions:

1. Signs having less than four square feet in area per sign face and manufacturer's product display racks are considered as exceptions to Subsection (18)(b) and (c) supra, provided no customer service area shall extend closer than ten feet to the nearest right-of-way line of a public street.

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2. On-premises signs without advertising, directing on-premises customer traffic or directing to specific customer service areas, shall be allowed in excess of the number and square footage limitations in Subsection (18)(b) and (c) supra, provided the aggregate area of such signs shall not exceed 20 square feet per business location.

(e) Illuminated Signs. Illuminated signs, except illuminated clocks, thermometers, and illuminated signs within a building, shall be turned off at 11:00 p.m. or closing, whichever is later. No illuminated signs shall be so located as to shine directly into adjacent conforming residential property.

(f) Blinking and Revolving Signs. No flashing, oscillating, osculating, revolving or blinking signs shall be allowed.

(g) Audible Devices. The sign shall have no audible devices.

(h) Amortization. See Nonconforming uses, Section 23.A.(1)c.

(i) Determination of Sign Size. The sign area shall be measured as follows:

1. Square or Rectangular Sign. Length times the height of the face of the sign.

2. Irregularly-shaped Sign. Area of rectangles, circles, ovals, triangles, or a combination thereof, necessary to enclose the face of the sign.

3. Sign Made of Individual Cutout Letters. Sum of the area of the rectangles or triangles necessary to enclose each letter.

(19) Stand for the sale of fruit, vegetables, or nursery stock.

(20) Firewood sales yard, provided it complies with the following:

(a) No wood may be stored closer than ten feet to any property line or within ten feet of any structure.

3. Conditional Uses:

a. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set forth in Section 24 of this Ordinance.

(1) Bar or lounge, liquor store.

(2) Cleaning (clothes) agency or clothes pressing establishment provided that:

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- (a) All activities are conducted within an enclosed building.
 - (b) Not more than three persons are engaged, exclusive of pressers and office, clerical or delivery personnel.
 - (c) The establishment is operated principally as a retail business, and
 - (d) That portion of the building in which any cleaning process is done shall be at least 50 feet from any A-1, R-1, A-2, M-H or R-2 zone.
- (3) Clothing or shoe store, dry goods store, tailor, custom dressmaking or millinery shop.
- (4) Drive-in establishment such as restaurant, food store, refreshment stand provided that a solid wall or fence at least six feet high is erected along the side of all area abutting or contiguous to any A-1, A-2, R-1, R-2, or M-H zone or any conforming residential use.
- (5) Florist.
- (6) Garage for automotive repair provided it complies with the following:
 - (a) Any automotive repair shall be conducted within a completely enclosed building located at least 20 feet from any A-1, R-1, R-2, M-H, or A-2 property.
 - (b) Storage of not more than five automobiles awaiting repair shall be permitted provided that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least six feet high.
- (7) Commercial animal establishment and nonprofit animal facility.
- (8) Hospital for animals, kennels, provided there is no outside kennel or pen. Outside exercise runs may be provided and must comply with the following:
 - (a) A run must be enclosed with a solid wall or fence at least six feet high.
 - (b) Only one animal permitted in the run at any one time.
 - (c) No small animals permitted to remain in the run overnight.
- (9) Interior decorating shop.
- (10) Jewelry store.

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(11) Notions store.

(12) Paint store.

(13) Pet shop, bird store, taxidermist.

(14) Photography studio.

(15) Shoe repair shop, shoeshine stand.

(16) One mobile home for a watchman or caretaker on the same lot or parcel of land with a commercial building or use, provided such mobile home is not used as a commercial unit.

(17) Studio for instruction in music or dance.

C. Height Regulations. The same regulations apply as in the R-2 zone, except as provided in Section 22 of this ordinance.

D. Area Regulations:

1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.
2. Side Yard. No side yard is required except for buildings or parts of buildings hereafter erected or structurally altered for residential use, in which case, the side yard regulations of the R-1 zone shall apply. In all other cases, a side yard is required only on the side of a lot abutting an A-1, A-2, M-H, R-1, or R-2 zone, in which case there shall be a side yard of not less than six feet.
3. Rear Yard. Except as hereinafter provided in Section 22, there shall be a rear yard having a depth of not less than 15 feet.
4. Off-Street Parking Spaces, Loading and Unloading Spaces. Off-street parking spaces and loading and unloading spaces shall be provided in accordance with the requirements for specific uses set forth in Section 21 of this ordinance.
5. Floor Area. The gross building floor area occupied by any one business shall not exceed 4,000 square feet.

Section 14. C-1 Neighborhood Commercial Zone.

- A. The regulations set forth in this section, or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-1 Neighborhood Commercial Zone. The purpose of this zone is to provide suitable sites for office, service, institutional, and limited commercial uses to satisfy the day-to-day needs of nearby residential areas and to minimize any adverse effect on nearby residential development.

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B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building or premises shall be maintained on site.

1. Permissive Uses:

a. Any permissive use allowed and as regulated in the R-2 Multiple-Family Zone and O-1 Office and Institutional Zone and the following:

(1) Automobile, motorcycle, bicycle, and motorized bicycle (moped) repairing, but no body work. Repairing shall be done within a completely enclosed building at least 20 feet from any residential zone. Storage of not more than five automobiles awaiting repair shall be permitted provided that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least six feet high.

(2) Banking and loaning money. Drive-in facilities permitted on the condition the vehicle movement plan is approved by the Public Works Department.

(3) Car Wash.

(4) Commercial animal establishments and nonprofit animal facility.

(5) Delivery service.

(6) Drugstore.

(7) Dry cleaning, laundry, clothes pressing, provided:

(a) Only nonflammable or noncombustible materials are used in the cleaning process.

(b) The number of persons employed in the establishment is limited to three, excluding pressers, office, clerical, or delivery personnel.

(c) That portion of the structure in which any cleaning process is done is at least 50 feet from A-1, A-2, R-1, R-2, or M-H zone.

(8) Health gymnasiums.

(9) Interior decorating.

(10) Laundromat.

(11) Medical clinic.

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(12) Retail sales of the following goods, plus incidental retailing of related goods and incidental service or repair, provided it is not listed as a conditional use in this zone, and with the following limitations:

(a) Arts and crafts objects retail sales, supplies plus their incidental creation, provided there is little or no reproduction of substantially identical objects.

(b) Auto parts and supply retail sales.

(c) Bakery goods shop or confectionery store wherein a majority of the products are sold on the premises and at retail costs.

(d) Bicycle and motorized bicycle (moped) sales and rental, provided that outdoor display is permitted only 50 feet or more from any residential zone.

(e) Books, magazines, newspapers, stationery for retail sales, but not an adult bookstore.

(f) Clothing, shoes, drygoods for retail sales.

(g) Cosmetics, notions, hobby supplies for retail sales.

(h) Feed store (retail) provided all outside storage is enclosed by a solid wall or fence six feet high on all sides abutting A-1, A-2, R-1, R-2, or M-H property.

(i) Flowers and plants, including minor and incidental outdoor sales.

(j) Grocery Store.

(k) Jewelry.

(l) Musical instruments and supplies.

(m) Nursery or greenhouse provided all outside storage other than plant material is enclosed by a six-foot high solid wall or fence on all sides.

(n) Package Liquor Store.

(o) Paint store.

(p) Pet shop and/or pet grooming, provided there are no outside pens.

(q) Photographic equipment.

(r) Sporting goods.

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(s) Service station, including the sale of liquefied petroleum gas, but not for resale, provided any tube or tire repairing, minor auto repair or battery charging shall be conducted within a completely enclosed building.

(t) Tailoring, dressmaking.

(13) Restaurant provided:

(a) There shall be no drive-in restaurant; and

(b) Alcoholic drink may be sold only under a restaurant license for sale of beer and wine, as provided by NMSA 1978, § 60-6A-4.

(14) Shoe repair shop, shoeshine stand.

(15) Small animal clinic.

(16) Schools, both public and private.

(17) Sign, on-premises provided:

(a) Location Criteria. It is located on private property and advertises, identifies, or directs to a use currently conducted on the same premises. The location of such signs must comply with the following requirements:

1. One freestanding, two-sided sign no higher than 16 feet.

2. The outer edge of a wall sign may protrude up to one foot over the property line into the public right-of-way, provided the bottom edge of the sign is eight feet or more above the curb or sidewalk grade.

(b) Number of Signs: Not more than one sign is permitted for any one premises with street frontage of 50 feet or more. A composite group of small signs integrated into one framed unit shall constitute one sign.

(c) Size of Signs:

1. The total area of any one sign face shall not exceed 32 square feet.

2. The total aggregate of all faces of signs or combination of signs allowed for the property on which the use is located shall not exceed 130 square feet of sign area.

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3. Business fronting on more than one street will be allowed additional square footage of sign area to the extent of 50 percent of that allowed for its main street frontage.

(d) Exceptions:

1. Signs having less than four square feet in area per sign face and manufacturer's product display racks are considered as exceptions to Subsection (17)(b) and (c) supra, provided no customer service area shall extend closer than ten feet to the nearest right-of-way line of a public street.
2. On-premises signs without advertising, directing on-premises customer traffic or directing to specific customer service areas, shall be allowed in excess of the number and sign face square footage limitations in Subsection (17)(b) and (c) supra, provided the aggregate area of such signs shall not exceed 20 square feet per business.

(e) Illuminated Signs. Illuminated signs, except illuminated clocks, thermometers, and illuminated signs within a building, shall be turned off at 11:00 p.m. or closing, whichever is later. No illuminated signs shall be so located as to shine directly into adjacent conforming residential property.

(f) Blinking and Revolving Signs. No flashing or blinking signs except time and temperature signs shall be allowed within 200 feet of any residential zone. Revolving signs shall not revolve at speeds exceeding eight RPM. No power pack units shall be allowed.

(g) Audible Devices. No sign shall have audible devices.

(h) Amortization. See Nonconforming Uses.

(i) Determination of Sign Size. The sign area shall be measured as follows:

1. Square or Rectangular Sign. Length times the height of the face of the sign.
2. Irregularly-shaped Sign. Area of rectangles, circles, ovals, triangles, or a combination thereof, necessary to enclose the face of the sign.
3. Sign Made of Individual Cutout Letters. Sum of the area of the rectangles or triangles necessary to enclose each letter.

(18) Sign, Off-premises Provided:

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- (a) It is located on private property outside the established public right-of-way as it may apply to properties along freeways or the Interstate system. When located on private property other than as described above, the following setback measurement from the property line along the abutting street or highway shall be as follows:

Total Sign Area	Setback
301 to 400 square feet	25 feet
150 to 300 square feet	12 feet
Less than 150 square feet	8 feet

- (b) The maximum height of the top of the sign shall not exceed 30 feet from grade level at the base of the sign. Allowable cutouts or extensions shall not constitute the top of the sign providing they do not extend more than five feet above the top of the sign surface, and total square footage of such cutouts extending beyond the sign facing shall not result in total square area exceeding 400 feet for the entire sign and cutouts. Advertising structures which are oriented toward freeway traffic and are located within 200 feet of [a] freeway right-of-way may not exceed 30 feet above the ground level at the base of the sign or 26 feet above the elevation of the freeway at its closest point to the advertising structure, whichever is higher. (No sign shall have its lowest point less than 12 feet above ground over public right-of-way. No sign except a wall sign, shall be between three and eight feet above the grade line within ten feet of a street public right-of-way line.)

- (c) No flashing, blinking or intermittent lights shall be permitted, and no sign shall be illuminated by red, green, or amber lights which interfere with a traffic control signal or device. No power pack units shall be allowed.

- (d) The total area of all signs on the property does not exceed the combined total area permitted for on-premises signs, plus the area permitted for one off-premises sign in that zone, and in no event shall any one sign exceed 400 square feet. Sign area shall not include an ornamental base or skirt area provided it does not display advertising copy or exceed 36 inches in its vertical dimension; however, the sign owner's name may be displayed thereon in accordance with State Law.

- (e) No billboard within 660 feet of the nearest public right-of-way of a major street or highway shall be nearer than 500 feet to any other off-premises sign or billboard if both signs are designed to be read by traffic moving in the same direction. But this spacing requirement shall not apply to the distance between two off-premises signs which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time. This

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provision shall not prevent the installation of double-faced, back-to-back or V-type advertising displays, providing the maximum separation of sign faces does not exceed ten feet.

(f) No freestanding billboard or advertising sign shall be nearer than 100 feet to any occupied residential zone.

(g) Signs installed contrary to zoning regulations in force at the time of installation are subject to immediate removal under the terms of the Administrative Subsection A.2.g. of this ordinance.

2. Conditional Uses:

a. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set forth in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and the community.

(1) Hospital for animals, and kennel, provided it is in a completely enclosed building.

(2) Hospital for human beings or sanatorium nursing home, provided traffic and ambulance noise will not have an adverse effect on residences in the neighborhood.

(3) Mortuary.

(4) One mobile home for a watchman or caretaker on the same lot or parcel of land with a conforming or nonconforming use, provided such mobile home is not used as a commercial or industrial unit, and, further, provided that no other residential dwelling unit is located on the same lot or parcel.

(5) Stand for the sale of fruit, vegetables, or nursery stock.

(6) Temporary storage building or yard for equipment, material or activity incidental to a specific construction project but not to exceed one year, unless the time is extended by the Zoning Administrator.

C. Height Regulations. The same regulations apply as in the R-2 zone except as provided in the Supplementary Height and Area Regulations Section of this ordinance.

D. Area Regulations:

1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.

2. Side Yard. No side yard is required except for buildings or parts of buildings hereafter erected or structurally altered for residential use, in which case, the side yard regulations

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of the R-1 zone shall apply. In all other cases, a side yard is required only on the side of a lot abutting an A-1, A-2, R-1, R-2 or M-H zone, in which case there shall be a side yard of not less than six feet.

3. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulations Section of this ordinance, there shall be a rear yard having a depth of not less than 15 feet.

4. Off-Street Parking Spaces, Loading and Unloading Spaces. Off-street parking spaces and loading and unloading spaces shall be provided in accordance with requirements for specific uses set forth in the Off-Street Parking, Loading and Unloading Regulations Section of this ordinance.

E. Landscape and Buffer Landscaping. As required by the Landscaping and Buffer Landscaping Section of this ordinance.

Section 15. C-2 Community Commercial Zone.

A. The regulations set forth in this section, or set forth elsewhere in this ordinance, when referred to in this section, are the regulations in the C-2 Community Commercial Zone. The purpose of this zone is to provide for commercial uses and to regulate such uses in such a manner as to provide for appropriate community commercial uses.

B. Use Regulations. A building or premises shall be used only for the following purposes. All uses customarily incidental to the building and premises shall be maintained on site.

1. Permissive Uses:

a. Any permissive and conditional use allowed and as regulated in the C-1 Neighborhood Commercial Zone and the following:

(1) Bus passenger terminal.

(2) Garage for automotive repair, provided it complies with the following:

(a) Any automotive repair shall be conducted within a completely enclosed building located at least 20 feet from any A-1, A-2, R-1, R-2, or M-H property.

(b) Storage of not more than five automobiles awaiting repair shall be permitted provided that the outdoor area in which such cars are stored shall be enclosed by a solid wall or fence at least six feet high.

(3) Hotel or motel.

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- 1 (4) Indoor amusement enterprise including auditorium, billiard or pool hall, bowling
2 alley, boxing arena, dancehall, game of skill, theater, penny arcade, shooting gallery,
3 skating rink, swimming pool.
4
- 5 (5) Retail store business, or shop in which products may be manufactured, compounded,
6 processed, assembled, or treated, incidental to the retail operation including carpentry,
7 ceramics, fabric cutting and sewing, furniture making, upholstering, sign painting,
8 making of rubber or metal stamps, interior decorating, catering, baking, confectionery
9 making, weaving, or jewelry or curio making, provided it complies with the following
10 requirements:
11
- 12 (a) All activities shall be conducted within a completely enclosed building, and any
13 outside storage shall be enclosed by a six-foot solid wall or fence.
14
- 15 (b) The number of persons engaged in the manufacturing, processing, assembling, or
16 treating of products shall be limited to ten, excluding office, clerical, or delivery
17 personnel.
18
- 19 (c) Any such store shall be operated principally as a retail business.
20
- 21 (d) Activities or products shall not be objectionable due to odor, dust, smoke, noise,
22 vibration, or other cause.
23
- 24 (6) Retailing of any consumer product and provision of any customer, personal, or
25 business service, provided it is not listed as a conditional use in this zone, and with
26 the following limitations:
27
- 28 (a) Automobile, truck, trailer sales, provided that any such area be surfaced with
29 higher-type paving, and a solid wall or fence six feet high shall be maintained
30 along any side of such area abutting or contiguous to any A-1, A-2, R-1, R-2, or
31 M-H zone.
32
- 33 (b) Auto, trailer, and truck rental, service, storage, provided the lot is graded and
34 surfaced as follows:
35
- 36 1. Blacktop or equal. Two inches of asphaltic concrete on a prime coat and a
37 four inch compacted subgrade, or a surface of equal or superior performance
38 characteristics.
39
- 40 2. Such paving shall be maintained level and serviceable.
41
- 42 (c) Trucks and trailers parked outdoors for rental or storage, provided:
43

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1. Such vehicles shall not exceed 35 feet in length, 12 feet in height, or have a registered gross vehicle weight capacity of 26,000 pounds. The body of trailers shall not be over 14 feet long unless it is a recreational vehicle.
 2. No such vehicles shall be truck tractors or road tractors.
 3. Parked or stored vehicles shall not cover more than 25 percent of the premises.
 4. A fence or wall which prevents vehicles from extending beyond the property line shall be erected. However, if the wall or fence plus retaining wall would have an effective height of over eight feet on the residential side, the Zoning Administrator shall decide the required height; such decision shall be made by the same process and criteria required for a conditional use.
- (d) Drive-in restaurant or refreshment stand, provided the site is enclosed by a solid wall or fence six feet high on all sides abutting or contiguous to A-1, A-2, R-1, R-2, or M-H property, provided there are no audible devices.
- (e) Furniture, hardware, or home appliance store.
- (f) Hospital for animals, kennels.
- (g) Lumberyard and building material sales (retail) provided all storage is within a building or enclosed by a six-foot solid wall or fence on all sides.
- (h) Printing, publishing, lithographing, blueprinting or photostating establishment.
- (7) Rental or sale of household, yard, and garden equipment, provided all storage is contained within an enclosed building or enclosed by a six-foot high solid wall or fence on all sides abutting A-1, A-2, R-1, R-2, or M-H property.
- (8) Restaurant with full service liquor license.
- (9) Sign provided:
- (a) Location Criteria. It is located on private property and advertises, identifies, or directs to a use currently conducted on the same premises. The location of such signs must comply with the following requirements:
 1. A freestanding sign may not overhang into the public right-of-way.
 2. The outer edge of a wall sign may protrude up to one foot over the property line into the public right-of-way, provided the bottom edge of the sign is eight feet or more above the curb or sidewalk grade.

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(b) Number of signs. One freestanding or projecting sign shall be permitted for each street frontage of each premises or joint sign premises which has at least 100 feet of street frontage, or one per 300 feet of total street frontage (e.g., up to two signs allowed if 630 feet of frontage), whichever is more permissive.

(c) Size of Signs:

1. The total aggregate of all faces of signs or combinations of signs allowed for the property on which the use is located shall not exceed 150 square feet of sign area for the first 50 feet of street frontage and one square foot of sign area for each additional foot of street frontage.
2. Business fronting on more than one street will be allowed additional square footage of sign area to the extent of 50 percent of that allowed for their main street frontage.
3. For every linear foot of distance that a sign is set back from the nearest street right-of-way line, an increase of one square foot of sign area is permitted. However, this additional allowance will not be permitted if the sign is located within 75 feet of any residential zone.

(d) Height. The height of a sign is measured from grade level at the base of the sign to the top of the highest part of the sign surface. The maximum height of any freestanding sign shall not exceed 26 feet. A sign mounted on or attached to a building may extend up to but not more than five feet above the height of the building, provided no direct illumination shall be visible from the rear of the sign.

(e) Exceptions:

1. Signs having less than four square feet in area per sign face and manufacturer's product display racks are considered as exceptions to Subsection (10)(b) and (c) supra, provided no customer service area shall extend closer than ten feet to the nearest right-of-way line of a public street.
2. On-premises signs without advertising, directing on-premises customer traffic or directing to specific customer service areas, shall be allowed in excess of the number and square footage limitations in Subsection (10)(b) and (c) supra, provided the aggregate area of such signs shall not exceed 20 square feet per business location.
3. Businesses oriented toward freeway traffic and which are located within 300 feet of the termination of a freeway access control line at any on-ramp or off-ramp of a freeway shall be permitted one freestanding on-premises sign consisting of one name and/or emblem which shall not be included in the

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computation of total allowable sign area specified in Subsection (10)(c) supra,
but shall be included as one of the maximum number of signs allowed per
business provided:

(f) Illuminated Signs. Illuminated signs, except illuminated clocks, thermometers,
and illuminated signs within a building, shall be turned off at 11:00 p.m. or
closing, whichever is later. No illuminated signs shall be so located as to shine
directly into adjacent conforming residential property.

1. Such sign shall not exceed a total of 480 square feet in area.

2. The height of such sign shall not exceed 26 feet above the grade level at the
base of the sign or 26 feet above the elevation of the freeway at its closest
point to the site, whichever is higher.

(g) Blinking and Revolving Signs. No flashing or blinking signs except time and
temperature signs shall be allowed within 200 feet of any residential zone.
Revolving signs shall not revolve at speeds exceeding 8 RPM. No power pack
units shall be allowed.

(h) Audible Devices. No sign shall have audible devices.

(i) Amortization. See Nonconforming Uses.

(j) Determination of Sign Size. The sign area shall be measured as follows:

1. Square or Rectangular Sign. Length times the height of the face of the sign.

2. Irregularly-shaped Sign. Area of rectangles, circles, ovals, triangles, or a
combination thereof, necessary to enclose the face of the sign.

3. Sign Made of Individual Cutout Letters. Sum of the area of the rectangles or
triangles necessary to enclose each letter.

(10) Billboard provided:

(a) It is located on undeveloped property outside the established public right-of-way
as it may apply to properties along freeways or the interstate system. When
located on private property other than as described above, the following setback
measurement from the property line along the abutting street or highway shall be
as follows:

Total Sign	Area Setback
301 to 400 square feet	25 feet

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150 to 300 square feet	12 feet
Less than 150 square feet	8 feet

(b) The maximum height of the top of the sign shall not exceed 30 feet from grade level at the base of the sign. Allowable cutouts or extensions shall not constitute the top of the sign, providing they do not extend more than five feet above the top of the sign surface, and total square footage of such cutouts extending beyond the sign facing shall not result in total square area exceeding 400 feet for the entire sign and cutouts. Advertising structures which are oriented toward freeway traffic and are located within 200 feet of freeway right-of-way may not exceed 30 feet above the grade level at the base of the sign or 26 feet above the elevation of the freeway at its closest point to the advertising structure, whichever is higher.

(c) No flashing, blinking or intermittent lights shall be permitted, and no billboard shall be illuminated by red, green, or amber lights which interfere with a traffic control signal or device. No power pack units shall be allowed.

(d) The total area of all signs on the property does not exceed the combined total area permitted for on-premises signs, plus the area permitted for one off-premises sign in that zone, and in no event shall any one sign face exceed 400 square feet. Sign area shall not include an ornamental base or skirt area, provided it does not display advertising copy or exceed 36 inches in its vertical dimension; however, the sign owner's name may be displayed thereon in accordance with State Law.

(e) No billboard within 660 feet of the nearest public right-of-way of a major street or highway shall be nearer than 500 feet to any other off-premises sign or billboard if both signs are designed to be read by traffic moving in the same direction. But this spacing requirement shall not apply to the distance between two off-premises signs which are separated by a building or other obstruction in such a manner that only one display located within the minimum spacing distances set forth herein is visible from the highway at any one time. This provision shall not prevent the erection of double-faced, back-to-back or V-type advertising displays, providing the maximum separation of signs are ten feet.

(f) No freestanding billboard or advertising sign shall be nearer than 100 feet to any occupied residential zone.

(11) Taxidermist.

(12) Transfer or storage of household goods including self-storage miniwarehouses, provided:

(a) Ingress and egress is available from an arterial or collector street shown on the adopted Long Range Major Street Plan.

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(b) Parking and maneuvering of vehicles is permitted only off the street in a parking area as approved by the Zoning Administrator.

(c) Outside lighting is so located, screened, or shaded so as not to reflect off the premises.

(d) All storage is within completely enclosed one-story structures not to exceed 12 feet in height.

(e) The site must be enclosed by a solid wall or fence on all sides facing or abutting A-1, A-2, R-1, R-2 or M-H zoning.

2. Conditional Uses:

a. The following uses may be permitted if approved by the Zoning Administrator in accordance with the procedures and under the conditions set forth in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and community.

(1) Adult amusement establishment, including but not limited to, adult bookstore, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, and adult body oil or lotion demonstration parlors; provided:

(a) The use is located at least 2,000 feet from another adult amusement establishment, adult bookstore, adult photo amusement establishment, adult photo studio, adult theater, adult video arcade, and adult body oil or lotion demonstration parlors; and

(b) The use is located at least 2,000 feet from the nearest conforming residential use, or from any church or school.

(2) Amusement enterprise, provided any lighting shall be so located, screened or shaded so as not to reflect off the premises as follows:

(a) Baseball batting or archery range, provided the area shall be fenced or otherwise designed to prevent any balls or arrows from going off the premises.

(b) Circus, carnival, or enterprise of similar type, provided it be located at least 300 feet from any dwelling which is a conforming use, shall be permitted at one location for a period of not more than seven days. The hours of operation, including the time of erection and dismantling of equipment, shall be between 6:00 a.m. and 12:30 a.m.

(c) Golf driving range, including commercial activities specifically related to the operation of the use, such as pro shop for the sale or rental of golf equipment, and the usual concession stands, provided the site contains at least six acres and that

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fencing shall be provided, or the use so designed as to prevent balls from being driven off the premises.

(d) Kart track, including "go-cart" track and similar facility, provided that the site contains at least three acres; the track shall be located at least 1,000 feet from any dwelling and at least 100 feet from any public way; the spectator area shall be protected from the vehicular area by suitable fencing, bumpers or other protective devices; any off-street parking area shall be subject to regulations as defined for a parking lot; and hours of operation shall be between 9:00 a.m. and 10:00 p.m.

(e) Children's amusement park, provided that amusement devices shall be located at least 300 feet from any dwelling; hours of operation shall be between 9:00 a.m. and 10:00 p.m.; any public address system shall be modulated; any off-street parking area shall be subject to regulations as defined for a parking lot; ponies shall be permitted on the premises only during the hours of operation; and the site shall be enclosed by a wall or fence at least six feet high.

(f) Jump net center.

(g) Miniature golf course.

(h) Pony riding, rodeo grounds, polo field without stables, provided any such use shall be located at least 300 feet from any dwelling.

(i) Swimming pool operated as a commercial enterprise including commercial activities specifically related to such use, such as the sale or rental of swimming equipment and the usual concession stands, provided any such use shall be enclosed by a wall or fence at least eight feet high. The hours of operation shall be limited to 6:00 a.m. to 11:00 p.m.

(3) Auction yard or structure or flea market, provided:

(a) Off-street parking area is clearly separated from the sales area.

(b) Ingress and egress to the parking areas is directly to arterial or collector streets.

(c) Where sales activities are conducted out of doors, the area must be enclosed by a solid wall or fence at least six feet high on all sides facing or abutting A-1, A-2, R-1, R-2 and M-H property.

(4) Firewood sales yard, provided it complies with the following:

(a) All outside storage is enclosed by a solid wall or fence at least six feet high on all sides abutting any A-1, A-2, R-1, R-2 or M-H zone, and further provided that

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wood may not be stacked above the plane established by the top of the
surrounding wall when a wall is required.

(b) No wood may be stored closer than ten feet to any property line or within ten feet
of any structure.

(c) Any driveway or area accessible to motor vehicles shall be surfaced with gravel,
oil, or other higher-type paving.

(5) One mobile home for a watchman or caretaker on the same lot or parcel of land with
a conforming or nonconforming use, provided such mobile home is not used as a
commercial or office unit, and, further, provided that no other residential dwelling
unit is located on the same lot or parcel.

(6) Blood Bank, Plasma Center.

(7) Bar and Lounge.

C. Height Regulations. The same regulations apply as in the R-2 zone except as provided in the
Supplementary Height and Area Regulations Section of this ordinance.

D. Area Regulations:

1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.

2. Side Yard. No side yard is required except for buildings or parts of buildings hereafter
erected or structurally altered for residential use, in which case, the side yard regulations
of the R-1 zone shall apply. In all other cases, a side yard is required only on the side of a
lot abutting an A-1, A-2, R-1, R-2, or M-H zone, in which case there shall be a side yard
of not less than six feet.

3. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area
Regulations Section of this ordinance, there shall be a rear yard having a depth of not less
than 15 feet.

4. Off-Street Parking Spaces, Loading and Unloading Spaces. Off-street parking spaces and
loading and unloading spaces shall be provided in accordance with requirements for
specific uses set forth in the Off-Street Parking, Loading and Unloading Regulations
Section of this ordinance.

E. Landscape and Buffer Landscaping. As required by the Landscaping and Buffer Landscaping
Section of this ordinance.

Section 16. M-1 Light Industrial Zone.

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1 A. The regulations set forth in this section, or set forth elsewhere in this ordinance, when
2 referred to in this section are the regulations in the M-1 Light Industrial Zone. The purpose of
3 this zone is primarily for light manufacturing, light fabricating, warehousing, and wholesale
4 distribution with off-street loading and off-street parking for employees, and with access to
5 arterial highways or railroads.

6
7 B. Use Regulations:

8
9 1. Prohibited Uses. The following uses are prohibited in this zone: Church, library, school,
10 hospital, or any residential use, except that each individual industrial use may provide
11 accommodations for one resident watchman or caretaker employed on the premises,
12 provided that such accommodations are not used for commercial, industrial or office
13 purposes.

14
15 2. Permissive Uses. A building or premises shall be used only for the following purposes.
16 All uses customarily incidental to the building or premises shall be maintained on site.

17
18 a. Any permissive or conditional use listed and as regulated in the C-2 zone except as
19 qualified above.

20
21 b. Bottling plant.

22
23 c. Cold storage plant.

24
25 d. Feed or fruit storage or sales (wholesale), provided all outside storage is enclosed by
26 a solid wall or fence six feet high on all sides abutting A-1, A-2, R-1, R-2, or M-H
27 property.

28
29 e. Foundry, casting of lightweight, nonferrous metal, provided there shall be no fumes
30 or odors discernible beyond the premises.

31
32 f. Ice plant (wholesale).

33
34 g. Laboratory (experimental or testing).

35
36 h. Laundry, cleaning, or dyeing works, including rug works, including rug and carpet
37 cleaning.

38
39 i. Uses which must be conducted within a completely enclosed building or within an
40 area enclosed on all sides by a wall or fence at least six feet high, and which must be
41 solid along the sides of the site facing or abutting land zoned A-1, A-2, R-1, R-2 or
42 M-H:

43
44 (1) Building material storage and sales.
45

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- 1 (2) Concrete or cement products manufacturing, batching plant, gravel or sand
2 removal activity, stockpiling, processing or distribution provided it complies with
3 the following requirements.
4
- 5 (a) Any gravel removal activities shall be conducted in accordance with sound
6 engineering practices.
7
- 8 (b) Depleted land shall be rehabilitated by grading or backfilling with
9 nonnoxious, nonflammable, noncombustible solids.
10
- 11 (c) Depleted land shall be graded or backfilled so as not to collect or permit
12 stagnant water to remain therein.
13
- 14 (d) Depleted land shall be so graded or backfilled that it will result in topography
15 in substantial conformity to the land immediately surrounding it and which
16 will minimize erosion caused by rainfall and runoff.
17
- 18 (e) Concrete or cement products manufacturing, batching plant, or processing of
19 stone shall be conducted in accordance with current environmental pollution
20 controls.
21
- 22 (3) Contractor's equipment storage, rental, or sale; contractor's plant.
23
- 24 (4) Fuel storage or sales (wholesale).
25
- 26 (5) Machine shop, blacksmith shop, ornamental iron shop, welding shop.
27
- 28 (6) Manufacturing, compounding, assembling, or treatment of articles made from the
29 following materials: Bone, shell, cellophane, cork, fibre, fur, glass, horn, leather,
30 precious or semiprecious metals or gems, paint (not involving a boiling process),
31 paper, plastics, textiles, yarn, tobacco, or wood.
32
- 33 (7) Manufacturing, compounding, processing, packaging, treating, assembling,
34 maintaining, repairing, overhauling, or rebuilding of the following products:
35 bakery goods, batteries, candy, cosmetic goods, toiletries, dairy products, drugs,
36 pharmaceutical goods, electrical appliances, electronic instruments and devices,
37 radios or phonographs, musical instruments, pottery, figurines, ceramics provided
38 only previously pulverized clay and kilns fired by electricity or gas shall be used,
39 signs, including electric or neon, billboards, commercial advertising structures,
40 toys, and novelties.
41
- 42 (8) Poultry or rabbit live storage or killing and dressing.
43
- 44 (9) Sheet metal working (light), including the making of heating or ventilating
45 products or equipment, cornices, and eaves.

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- (10) Truck terminal, tractor, trailer, or truck storage, including maintenance facilities.
 - (11) Warehouse.
 - (12) Food processing.
 - j. Auction of livestock.
 - k. Auto dismantling yards, junkyards, storage and salvage yards and yards used for the open storage of materials, provided they are enclosed on all sides by a wall or fence at least six feet high, which must be solid along the sides of the site facing or abutting land zoned A-1, A-2, R-1, R-2 or M-H, and provided further that inoperative automobile bodies, or parts thereof, are not stacked to a height above the height of the required wall or fence.
 - l. Accessory uses to any of the foregoing.
 - m. Off-premises sign or advertising structure as regulated in the C-2 zone except that maximum area of any one sign face shall not exceed 672 square feet, plus an additional add-on sign area for cutouts or extensions which may not exceed 34 square feet.
 - n. Tire recapping.
3. Conditional Uses. The following uses may be permitted, if approved by the Zoning Administrator, in accordance with the procedures and under the conditions set out in the Administration Section of this ordinance with additional requirements deemed necessary to safeguard the best interest of the adjoining property, neighborhood and community.
 - a. Asphalt batching plant provided the site is enclosed by a solid wall or fence six feet high on all sides abutting A-1, A-2, R-1, R-2, or M-H property.
- C. Height Regulations. The same regulations apply as in the C-2 Zone except as provided in the Supplementary Height and Area Regulation Section of this ordinance.
- D. Area Regulations:
 1. Front Yard. There shall be a front yard having a depth of not less than 30 feet.
 2. Side Yard. None required except on the side of a lot abutting an A-1, A-2, R-1, R-2 or M-H zone, in which case there shall be a side yard of not less than five feet in width.
 3. Rear Yard. Except as hereinafter provided in the Supplementary Height and Area Regulation Section, there shall be a rear yard having a depth of 15 feet.

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- 1
2 4. Off-Street Parking and Loading and Unloading Spaces. Off-street parking spaces, and
3 loading and unloading spaces, shall be provided in accordance with requirements for
4 specific uses set forth in the Off-Street Parking, Loading and Unloading Regulation
5 Section of this ordinance.
6

- 7 E. Landscape and Buffer Landscaping. Nonresidential uses facing or abutting on a principal or
8 minor arterial, as identified in the Long Range Major Street Plan, shall provide landscaping
9 as provided and regulated in the Landscaping and Buffer Landscaping Regulations Section of
10 this ordinance.
11

12 Section 17. M-2 Heavy Manufacturing Zone.
13

- 14 A. The regulations set forth in this section or set forth elsewhere in this ordinance, when referred
15 to in this section, are the regulations in the M-2 Heavy Manufacturing Zone. The purpose of
16 this zone is to provide for industrial operations of all types except that certain potentially
17 hazardous or nuisance-type industries as specified in Subsection B.2. below are permitted
18 only after public hearing and review to ensure protection of the public interest and
19 surrounding property and persons.
20

- 21 B. Use Regulations. A building or premises shall be used only for the following purposes. All
22 uses customarily incidental to the building or premises shall be maintained on site.
23

24 1. Permissive Uses:
25

- 26 a. Any permissive or conditional use listed in the M-1 zone.
27
28 b. Blast furnace, coke oven.
29
30 c. Boiler works.
31
32 d. Iron or steel foundry or fabrication plant, forging, rolling, or heavy weight casting.
33
34 e. Manufacture of the following:
35
36 (1) Acetylene gas.
37
38 (2) Alcohol.
39
40 (3) Ammonia, bleaching powder, chlorine.
41
42 (4) Asphalt.
43
44 (5) Brick, tile, terra cotta.
45

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- 1 (6) Chemicals.
- 2
- 3 (7) Oilcloth, linoleum.
- 4
- 5 (8) Paint, oil (including linseed), shellac, turpentine, lacquer, varnish.
- 6
- 7 (9) Petroleum byproducts.
- 8
- 9 (10) Plastics.
- 10
- 11 (11) Pyroxylin.
- 12
- 13 (12) Soap.
- 14
- 15 (13) Sodium compounds.
- 16
- 17 (14) Stove or shoe polish.
- 18
- 19 (15) Tar products.
- 20
- 21 f. Milling, manufacturing, and related processing of cement.
- 22
- 23 g. Railroad repair shops.
- 24
- 25 h. Salvage yard for storage and sale of used materials such as metal, rope, paper, glass,
- 26 leather, rags, lumber, plastic, and equipment made of these materials, provided the
- 27 yard is enclosed by a solid fence or wall at least six feet high on all sides facing or
- 28 abutting land zoned A-1, A-2, R-1, R-2 or M-H.
- 29
- 30 2. Conditional Uses. The following uses may be permitted only if approved by the Zoning
- 31 Administrator in accordance with the procedures and under the conditions set out in the
- 32 Administrative Section of this ordinance with additional requirements deemed necessary
- 33 to safeguard the best interest of the adjoining property, neighborhood and the community.
- 34
- 35 a. Distillation of bones.
- 36
- 37 b. Fat rendering.
- 38
- 39 c. Manufacture of the following:
- 40
- 41 (1) Explosives.
- 42
- 43 (2) Fertilizer.
- 44 (3) Glue.
- 45

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- 1 (4) Lime, gypsum, plaster of Paris.
- 2
- 3 d. Stockyard, feeding pen.
- 4
- 5 e. Slaughter of animals.
- 6
- 7 f. Tannery, curing of raw hides.
- 8
- 9 g. Wool pulling or scouring.
- 10
- 11 C. Height Regulations. None.
- 12
- 13 D. Area Regulations:
- 14
- 15 1. The front, side and rear yard regulations are the same as those in the M-1 Light Industrial
- 16 Zone.
- 17
- 18 2. Off-Street Parking Spaces, Loading and Unloading Spaces. Off-street parking spaces, and
- 19 loading and unloading spaces shall be provided in accordance with requirements for
- 20 specific uses set forth in the Off-Street Parking, Loading and Unloading Regulation
- 21 Section of this ordinance.
- 22
- 23 E. Landscape and Buffer Landscaping. Nonresidential uses facing or abutting on a principal or
- 24 minor arterial, as identified in the Long Range Major Street Plan, shall provide landscaping
- 25 as provided and regulated in the Landscaping and Buffer Landscaping Regulations Section of
- 26 this ordinance.
- 27
- 28 Section 18. Special Use Permit Regulations.
- 29
- 30 A. By Special Use Permit after receipt of a recommendation from the Extraterritorial Land Use
- 31 Commission, the Extraterritorial Land Use Authority may authorize the location of uses in
- 32 any zone in which they are not permitted by other sections of this ordinance; the
- 33 Extraterritorial Land Use Authority may likewise authorize the increase in height of
- 34 buildings beyond the limits set by previous sections of this ordinance. With such permits, the
- 35 Extraterritorial Land Use Authority may impose such conditions and limitations as it deems
- 36 necessary:
- 37
- 38 1. To ensure that the degree of compatibility of property uses which this section is intended
- 39 to promote and preserve shall be maintained with respect to the special use on the
- 40 particular site and consideration of existing and potential uses of property within the zone
- 41 and the general area in which the use is proposed to be located;
- 42
- 43 2. To ensure that the proper performance standards and conditions are, whenever necessary,
- 44 imposed upon uses which are, or which reasonably may be expected to become,
- 45 obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the

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public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes,
vibration, odor, or other harmful or annoying substances;

- 3.
4. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.
5. The Extraterritorial Land Use Commission must review the Special Use permit and progress of development from the date of approval and each year thereafter until completion of the plan, and if needed make a recommendation to the Extraterritorial Land Use Authority to continue or revoke the Special Use Permit.

B. Such Special Use Permits may authorize only the following uses:

1. Airport.
2. Amusement park of a permanent character, including kiddieland, children's playland, and children's amusement park.
3. Asphalt and batching plant.
4. Auction yard.
5. Automobile dismantling yard or similar use.
6. Baseball batting range, provided the area is fenced or otherwise designed to prevent balls from being batted off the premises.
7. Cemetery, including columbarium, mausoleum, or crematory, provided that any site for a new cemetery shall contain at least 20 acres.
8. Contractor's yard, Contractor's equipment storage, and Contractor's plant.
9. Drilling, production, or refining of petroleum, gas or hydrocarbons.
10. Drive-in theater, provided it complies with the following requirements:
 - a. Ingress and egress for any site abutting a state highway shall be given in writing by the State Highway Department. Otherwise, such approval shall be given in writing by the County Manager or his representative.

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- b. Reservoir off-street standing space or side service road space shall be provided at any entrance sufficient to accommodate vehicles in an amount equal to at least 30 percent of the vehicular capacity of the theater.
- c. Any building or structure shall be at least 50 feet from any street on any side where ingress or egress is permitted.
- d. Any area of the site accessible to vehicles or patrons shall be surfaced with gravel, oil or other higher type paving, except that any reservoir off-street standing space or side service road shall be surfaced with oil or other higher type paving where such space or road connects with a public way, as required by the Extraterritorial Land Use Authority
- e. Any screen less than 500 feet from a county arterial or State Highway shall be so located or shielded that the picture surface cannot be seen from such highway.
- f. The site shall be enclosed with a solid wall or fence at least six feet high, except that vision clearance must be maintained at all intersections or entrances and exits with public ways as specified for street intersections in Section 4.F. of this ordinance.
- g. Any adult theater is not:
 - (1) Located within 1000 feet from the nearest residential use or from any church or preelementary, elementary, or secondary school, or licensed Day Care Center.
 - (2) Located within 1,000 feet from any of the following uses: adult amusement establishment, adult bookstore, adult photo studio, and adult theater.

11. Feedlot, provided it complies with the following minimum requirements:

- a. Location.
 - (1) Restricted to those areas of Bernalillo County designated in the adopted "Albuquerque/Bernalillo County Comprehensive Plan for Major Open Space" as PRIVATE GRAZING. However, an existing feedlot located elsewhere, classified as a nonconforming use of land may apply for a Special Use Permit, subject to all feedlot requirements, except for the location criteria.
- b. Feedlot facility must provide for:
 - (1) Proper disposal of animal excrement.
 - (2) Eradication of pests by chemical or scientific means.
 - (3) Drainage of surface water to avoid pollution of any stream, river or irrigation ditch.

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(4) Mechanical means for scraping, cleaning and grading feedlot premises at all times.

(5) Review by appropriate local, state and federal agencies for feedlot design and location.

12. Golf course.

13. Golf driving range.

14. Hospital or institution of an educational, religious, charitable or philanthropic nature; foster group home; penal, correctional or mental institution.

15. Industrial park, that provides suitable sites for a wide range of industrial and commercial uses, provided uses are conducted in a compatible and harmonious manner within commercial and industrial environments achieved through a development plan and further provided it complies with the following requirements:

a. Yard Requirements. Unless otherwise approved in the development plan, all buildings in the park shall conform to the following yard requirements:

(1) Front Yard. There shall be a front yard having a minimum depth of 50 feet.

(2) Side and Rear Yards. There shall be a minimum side and rear yards of 20 feet; provided, however, that any side or rear yard abutting a residence in an A-1, A-2, R-1, R-2, or M-H zone shall have a minimum depth of 50 feet.

b. Building Height:

(1) Buildings. The same regulations as in the C-2 zone except as provided in the Supplementary Height and Area Regulation Section of this ordinance.

c. Maximum Lot Coverage:

(1) Principal and accessory buildings may occupy no more than 60 percent of the lot area.

d. Off-Street Parking. Parking requirements shall be as provided in the Off-Street Parking, Loading and Unloading Regulations Section of this ordinance, except that no parking shall be permitted in the required yard areas.

e. Landscaping. The front yard setback area and all yards abutting residential zones shall be permanently devoted to and maintained for the growing of trees, shrubs, lawns, and plants or other form of landscape treatment and shall also meet the Landscaping and Buffer Landscaping Regulations Section of this ordinance.

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1
2 16. Mining, excavating, removing, processing, stockpiling, or distribution of rock, sand,
3 gravel, clay, pumice, scoria, decomposed granite, or similar materials, or batching plant,
4 provided it complies with the following requirements:

5
6 a. All removal, stockpiling, processing or distribution activity shall be conducted in
7 accordance with contemporary and sound engineering practices.

8
9 b. Land Rehabilitation. Under the provisions of this section, depleted land shall be
10 rehabilitated in accordance with the following requirements:

11
12 (1) Grading or backfilling shall be made with nonnoxious, nonflammable,
13 noncombustible solids.

14
15 (2) Graded or backfilled land shall not collect and permit stagnant water to remain
16 therein.

17
18 (3) Peaks and depressions of the area shall be reduced to a surface which will result
19 in topography in substantial conformity to the land area immediately surrounding
20 and which will minimize erosion caused by rainfall and runoff.

21
22 17. Mobile home park, provided it complies with the following requirements:

23
24 a. The average width for each mobile home space shall be 40 feet.

25
26 b. Each mobile home space shall be required to maintain the following yard areas: Side-
27 to-side spacing between mobile homes shall be at least 20 feet, and back-to-back
28 spacing shall be at least 15 feet. The distance between any mobile home and any
29 building shall be at least 20 feet. A 20-foot setback from the interior streets of the
30 mobile home park shall be maintained. This area may be used for off-street parking.

31
32 c. Any mobile home shall be located at least 25 feet from the right-of-way line of any
33 street, and at least ten feet from any property line of the mobile home park.

34
35 d. There shall be at least two automobile off-street, paved parking spaces for each
36 mobile home. Parking may be tandem or side by side parking.

37
38 e. All interior streets accessible to motor vehicles shall be paved.

39
40 f. A solid wall, six feet high shall be maintained on all sides of the site. However, this
41 requirement need not be met until a dwelling unit is built on the A-1, A-2, R-1, R-2,
42 and M-H zoned land.

43 g. Driveways shall be at least 25 feet wide.
44

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- h. Driveways shall be lighted, and the lights shall be so arranged as to reflect away from abutting property, street or alley.
- i. Sites shall be kept graded, drained, and free of rubbish and litter.
- j. The minimum lot size per mobile home park shall be ten acres.
- k. On-premises signs as permitted and regulated in the C-1 Zone.
- l. Mobile homes shall be skirted with materials compatible with the siding of the mobile home.
- m. A storage building of sufficient size to accommodate all outside storage may be permitted, as provided in the Supplementary Height and Area Regulation Section of this ordinance.
- n. Landscape and Buffer Landscaping. As required by the Landscaping and Buffer Landscaping Section of this ordinance.
- o. Ten percent of the lot area shall be devoted to usable open space for recreational activities. Ponding and Drainage Areas shall not contribute to usable open space.

18. (For future use)

19. (For future use)

20. Ore reduction, smelting.

21. Overnight Campground, provided it complies with the following requirements:

- a. A campground shall have an area of not less than five acres and sites for no less than 15 recreational vehicles.
- b. The maximum gross density within a campground shall be 15 camp sites per acre. Land not accessible to campers shall not be included in the calculation of gross density.
- c. Campsites:
 - (1) All recreational vehicles or tents parked or attached to the ground for use as an overnight accommodation shall be on a campsite, as defined by this subsection.
 - (2) Each campsite shall be at least 1,650 square feet in area.

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- 1 (3) Each campsite shall provide parking space of adequate size to accommodate the
2 vehicles allowed at the same site. Such parking space shall be so constructed that
3 no portion of such vehicle shall extend onto any street within the campground.
4
- 5 (4) Campsites shall comply with the following minimum setback requirements:
6
- 7 (a) From the perimeter of the campground: 20 feet.
8
- 9 (b) From the boundary of a public right-of-way other than a local street: 100 feet.
10
- 11 (c) The minimum setback requirements above may be reduced if the campsite is
12 totally obscured from sight from off [the] site by natural barriers or a solid
13 wall or fence at least six feet high.
14
- 15 (d) Where a campground abuts a mobile home park, the minimum setback may be
16 reduced to ten feet along the boundary between the mobile home park and the
17 campground.
18
- 19 d. Streets. A campground shall be serviced by a private street system, paved at least to
20 the off-street parking regulations of this ordinance, and provide safe and convenient
21 access to all camp sites. If such road system is for one-way traffic only, directional
22 signs shall be installed.
23
- 24 e. Screening. On any side of the premises, contiguous or across the street from a
25 residential zone, a solid wall or fence at least six feet high shall be erected and
26 maintained. However, this requirement need not be met until a dwelling unit is built
27 on the residentially zoned land.
28
- 29 f. Landscape and Buffer Landscaping. As required by the Landscaping and Buffer
30 Landscaping Section of this ordinance.
31
- 32 22. Pet cemetery, provided that the site contains at least two acres.
33
- 34 23. Planned development area, including residential areas or mixtures of residential and
35 commercial developments, provided the minimum lot area is five acres where, due to
36 unusual circumstances, such as topographic conditions, lot configuration, or other similar
37 conditions, special use, height, area, setback, or other regulations may be imposed.
38
- 39 24. Public building, public utility facility, power plant, transformer yard, sewage treatment
40 plant, sanitary solid waste incinerator, construction debris landfill, sanitary landfill and
41 similar technical operations essential to public health and welfare.
42
- 43 25. Racetrack for autos, motorcycles, carts, go-carts, horses, dogs, or the like, or drag strip,
44 provided:
45

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1 a. Any area of the site accessible to vehicles of patrons shall be surfaced with gravel or
2 other higher type paving where such space or road connects with a public way, as
3 required by the Extraterritorial Land Use Authority.
4

5 b. Screening. On any side of the premises, contiguous or across the street from a
6 residential zone, a solid wall at least six feet high shall be erected and maintained.
7

8 26. Radio or television transmitter antenna (commercial) provided it shall be at least 100 feet
9 from any public way.
10

11 27. School bus operation and parking lot.
12

13 28. Stadium for baseball, football, rodeo, or the like, provided any area of the site accessible
14 to vehicles of patrons shall be paved, except that any reservoir off-street standing space
15 or side service road shall be paved where such space or road connects with a public way.
16

17 29. Shopping Center.
18

19 30. Storage Facility for Hazardous Waste Materials.
20

21 a. Provided such storage facility complies with Federal, State and County
22 Environmental Health Regulations.
23

24 31. Winery, provided it is associated with an on-site vineyard.
25

26 32. Specific Use. In certain situations based on unique conditions, and where there is
27 evidence of substantial support from the affected neighborhood residents and/or property
28 owners within 100 feet, a Special Use Permit may be recommended for approval by the
29 Extraterritorial Land Use Authority for any of the specific uses set forth in Sections 12,
30 13, 14, 15, 16, 17, and 18 of the Albuquerque/Bernalillo County Extraterritorial Zoning
31 Ordinance. It should be noted that these special use permits may not be applied for by
32 the applicant; rather, they may be considered by the Extraterritorial Land Use
33 Commission only after it has been determined that the requested zone is inappropriate,
34 and that unique conditions and substantial neighborhood support exist.
35

36 C. Application Procedures.
37

38 1. An application for a Special Use Permit shall be filed with the County Zoning, Building
39 and Planning Department on prescribed forms and accompanied by all relevant data and
40 information. Incorrect or incomplete information may cause a delay in the review and
41 hearing process. It is recommended that the applicant consult with staff before filing an
42 application to be informed of any requirements or policies relevant to the request.
43

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2. Notwithstanding any other provision of this Ordinance, an application that proposes to increase or decrease the acreage of the affected property shall be processed as a new application.
3. Notwithstanding any other provision of this Ordinance, an application that proposes to change a Special Use for another Special Use shall be processed as a new application.
4. Application for a Special Use Permit may be made by an owner of the property or their designated agent on their behalf.
5. Each application shall be accompanied by a preliminary site development plan that shall:
 - a. Be drawn to scale.
 - b. Show North arrow.
 - c. Show boundaries of the property to be developed.
 - d. Show existing or proposed topography for the site and within a minimum of 25 feet beyond the property boundaries.
 - e. Show all existing and proposed structures on site and within 50 feet beyond the property boundaries including square footages of each structure, use of each structure, elevations, dimensions, loading and unloading areas.
 - f. Show number of parking spaces required and provided, including handicapped parking with location, arrangement, dimensions, aisles, bicycle racks, parking lot lighting and points of ingress and egress.
 - g. Show fire lanes and emergency vehicle parking.
 - h. Contain a conceptual Grading and Drainage Plan.
 - i. Show existing and proposed public and private streets, alleys and easements, with proper names and dimensions.
 - j. Contain a conceptual Landscape and Buffer Landscape Plan, identifying the nature and location of ground cover. The plan shall include a statement of responsibility for maintenance.
 - k. Show existing and proposed water, sewer, and fire hydrant locations, storm drainage facilities, and refuse container locations.
 - l. Show existing and proposed signage as regulated in the C-1 Zone.

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- m. Show proposed phasing of improvements and provision for interim facilities.
- n. Include a written statement describing the proposed project in detail and providing justification for approval.
- o. Include proof of neighborhood notification by certified mail as required by the Bernalillo County Neighborhood Association Recognition and Notification Ordinance.
- p. Copies of the site development plan of the proposed project shall be folded into 8-1/2 x11, 8 x 14 or 11x17 similar size.

D. An application fee for a Special Use Permit shall be charged as follows:

1. Less than five acres: \$400.00 for the first acre/or less, plus \$25.00 for each additional acre or portion thereof.
2. Five acres but less than 20 acres: \$500.00 for the first five acres, plus \$15.00 for each additional acre or portion thereof.
3. Twenty acres but less than 60 acres: \$725.00 for the first 20 acres, plus \$10.00 for each additional acre or portion thereof.
4. Sixty acres or more: \$1,125.00 for the first 60 acres, plus \$5.00 for each additional acre or portion thereof.
5. The same fee shall be charged for an amendment to a Special Use Permit that expands the acreage of the permit. A fee of \$300.00 shall be charged for an amendment to a Special Use Permit that only affects use. Applications for a Special Use Permit may be made by the Extraterritorial Land Use Authority, the Board of County Commissioners or their designated representative on behalf of Bernalillo County, the Albuquerque City Council, the Mayor of Albuquerque, or their designated representative on behalf of the City of Albuquerque, or by a person with direct financial, contractual, or proprietary interest in the affected property. When an application is withdrawn after scheduling and advertising for public hearing by the Extraterritorial Land Use Commission, the filing fee shall not be refunded to the applicant. When such application is withdrawn before such advertisement all but \$25.00 of the fee shall be refunded.

E. Hearing. Public hearing on all applications for special use permits shall be held by the Extraterritorial Land Use Commission in accordance with the procedures herein described:

1. Extraterritorial Land Use Commission must fix a regular time and place for regular hearings. A Special public hearing may be held at other than the established regular time or place, provided public notice of the hearing is given at least 24 hours in advance.

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2. Public notice of the hearing at which the application is to be considered must be given by at least one publication in a daily newspaper of general circulation in Bernalillo County at least 15 days before the date of the hearing; and

3. Public notice of hearing by certified mail, return receipt requested, not less than five days before the date of the hearing, to the owners of all property from the exterior boundaries of the area proposed to be changed, using for these purposes the last known name and address of the owner shown in the records of the Bernalillo County Assessor.

For properties that are less than two acres in area the notification radius shall be 200 feet, for properties in excess of two acres the notification radius shall be 500 feet.

When any of the property immediately beyond the radius described herein is under the same ownership as the property that is the subject of the application, the owner of the property next adjacent, disregarding public ways, also shall be notified.

4. The applicant must post and maintain one or more signs as provided by the Zoning Administrator, 15 days before and after the date of the hearing by the Extraterritorial Land Use Commission. The Applicant is responsible for removal of the sign(s) 16 days after the hearing, unless the recommendation is appealed. If appealed, signs must remain posted. Failure to properly post and maintain sign(s) is grounds for deferral or denial of the request.

The Zoning Administrator shall issue Sign(s) Posting Instructions.

F. Procedure. The Extraterritorial Land Use Commission shall make its decision on each application, and in the event of approval shall make a recommendation to the Extraterritorial Land Use Authority. The Extraterritorial Land Use Authority shall not authorize the issuance of a special use permit until it receives such a recommendation.

1. The Extraterritorial Land Use Authority shall sustain the recommendation of the Extraterritorial Land Use Commission without modification unless (1) the recommendation is appealed, or (2) by majority vote of the members present, designate an item for review on the record and may allow new evidence by the parties.

In the event an item is designated for review, the The Extraterritorial Land Use Authority shall defer the item to the next regularly scheduled Extraterritorial Land Use Authority meeting to allow renotification and advertisement of this item.

2. In approving any application, the Extraterritorial Land Use Commission shall impose minimum requirements as required by this section together with such additional requirements as the Extraterritorial Land Use Commission deems necessary to safeguard the public welfare, safety, health, morals, convenience, and best interest of the adjoining property, the neighborhood, and the community. Unless the permit specifies to the contrary, the special use so granted will continue for the life of the use.

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3. The Extraterritorial Land Use Commission must keep minutes of its proceedings, including a record of the vote of each member on each question, and the minutes must be public records. All material and documents submitted shall become part of the record.
 4. Recommendation for any application for a change to the Zone Map shall be void if not submitted to the Extraterritorial Land Use Authority within six months after the date of determination by the Extraterritorial Land Use Commission, or if not acted upon by the Extraterritorial Land Use Authority within three months after receipt of a recommendation from the Extraterritorial Land Use Commission.
 5. After an applicant's petition for a Special Use permit is advertised for public hearing by the Extraterritorial Land Use Commission, another petition for another special use permit or zone change affecting the same property shall not be filed within a period of 12 months from the date of final action by the Extraterritorial Land Use Authority or the date of the initial advertised hearing if no action was required by the Extraterritorial Land Use Authority.
 6. No Building or occupancy permits shall be issued for any building or use that is not in accordance with the approved development plan.
 7. Any requirement imposed by the Extraterritorial Land Use Authority shall become effective and shall be strictly complied with immediately upon execution or utilization of any portion of the rights and privileges authorized by approval of the Special Use Permit.
- G. Appeals. Appeal of any denial or approval of an application by the Extraterritorial Land Use Commission may be submitted in writing to Extraterritorial Land Use Authority within 15 days after the date of determination by the the Extraterritorial Land Use Commission. The day of determination by the the Extraterritorial Land Use Commission shall not be included in the 15-day period for filing an appeal, and if the fifteenth day falls on a Saturday, Sunday, or holiday, the next working day shall be considered as the deadline for filing the appeal. A building permit or Certificate of Occupancy and compliance shall not be issued until any appeal is decided, or the time for filing such appeal has expired.
1. Written notice of appeal shall be filed with the Zoning Administrator. A filing fee of \$75.00 shall accompany the notice of appeal on lots of one acre or less. A fee of \$100.00 on all other appeals.
 2. Public notice of any appeal shall be given by legal advertisement in the manner prescribed for a change to the text of this ordinance. Written notice of any appeal, together with notice of the hearing date, shall be sent to the applicant, a representative of the opponents, if any, and to the appellant (if other than the applicant).
 3. When an appeal is withdrawn after scheduling and advertising for public hearing by the Extraterritorial Land Use Authority, the filing fee shall not be refunded to the appellant.

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The appeal shall be presented to the Extraterritorial Land Use Authority within three months after the date the appeal is filed.

4. Any such decision by the Extraterritorial Land Use Authority shall, in all instances, be the final administrative decision and shall be subject to judicial review as may be provided by law.

When the Extraterritorial Land Use Commission has voted in favor of a land use change and this action is appealed, a five member extraordinary majority vote of the members of the Extraterritorial Land Use Authority is required to defeat an appeal where a written protest of the action is signed by each of the equitable owners of record of land comprising at least:

(1) Twenty percent of the land proposed for zone change or special use permit; or

(2) Twenty percent of the land not proposed for zone change or special use permit but within 100 feet, excluding public right-of-way, of the land proposed for change in use.

(3) Where there is a reasonable doubt as to whether (1) or (2) of this paragraph have been met and the appellant does not present clear and convincing evidence of having met the standards of this paragraph 3., the Extraterritorial Land Use Authority may proceed under the terms of paragraph a. of this subsection.

- a. Unless paragraph 3., above applies, the concurring vote of four members of the Extraterritorial Land Use Authority is required to reverse a determination of the Extraterritorial Land Use Commission.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners or by the Extraterritorial Land Use Authority in approving an application filed under this section or under the corresponding section of the Bernalillo County Zoning Ordinance shall constitute a violation of this ordinance and shall be subject to the same penalties as any other violation of this ordinance, and subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation

- (a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners or the Extraterritorial Land Use Authority.

- (b) If the Zoning Administrator or his designee finds that the approved development plan or any of the conditions imposed by the Board of County Commissioners or the Extraterritorial Land Use Authority have not been complied with, they shall notify in

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writing, the owner, tenant, agent, occupant, or person in charge of the premises,
indicating the nature of the violation and ordering its correction within 30 days.

(c) In the event that the violation of the approved development plan or of conditions
imposed by the Board of County Commissioners or the Extraterritorial Land Use
Authority continues, the Zoning Administrator or his designee may institute the
appropriate action to cancel the Special Use Permit pursuant to this section, or
proceed against the owner, tenant, agent, occupant, or person in charge of the
premises, pursuant to the Penalty Section of this Ordinance.

(d) Any violation of the approved development plans or of the conditions imposed that
continues for a period of 30 days after written notification by certified mail receipt
return requested, shall subject the Special Use Permit to cancellation pursuant to the
process outlined under Section 18 E., subsections 1, 2 and 3. In the event that the
Special Use Permit is cancelled, all references to said Special Use Permit shall be
removed from the Official Zone Maps by the County Planning Department.

2. In the event a use authorized by the Board of County Commissioners or the
Extraterritorial Land Use Authority is not established within 12 months from the date of
approval or the use is discontinued for a period of 12 months, the County Planning
Department shall send notification receipt return requested requiring the property owner,
tenant, agent, occupant, or person in charge of the premises, to state in writing within 30
days his or her intention to establish or continue said permit. If the property owner,
tenant, agent, occupant, or person in charge of the premises, does not declare in writing
his or her intention to establish or continue said permit, then the authorization or approval
may be cancelled and relevant documents, if any, shall be removed from the official zone
maps by the Planning Department.-

I. Special Use Permits which were permitted, after April 17, 1973, in accordance and under
the provisions set forth in the Special Use Permit Section may continue under whatever
terms or conditions imposed by the Board of County Commissioners, and unless the
permit specifies to the contrary, the Special Use Permit so granted will continue for the
life of the use.

Section 19. Landscaping and buffer landscaping regulations.

Where a nonresidential zone which is hereafter developed for a business purpose abuts a
conforming residential use, special buffer landscaping is required to minimize noise, lighting and
sight impact of the nonresidential activities in the residential area.

A. Landscaping and buffer landscaping will be required in all zones for office, commercial,
industrial, and multifamily residential uses; R-1, A-1, A-2 and M-H residential uses are
exempt.

1. Sites of one acre or less:

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- 1
- 2 a. There shall be a landscaped setback along all streets of no less than ten feet.
- 3
- 4 b. There shall be a landscaped buffer of six feet between single-family residential uses
- 5 and office, commercial, industrial, and multifamily residential uses.
- 6
- 7 c. Fifteen percent of all paved areas shall be landscaped. The landscaped setback shall
- 8 contribute toward this requirement.
- 9
- 10 2. Sites one acre and up to five acres. There shall be a landscaped setback along all streets
- 11 of no less than 15 feet. All other requirements same as 1.b. and 1.c. above.
- 12
- 13 3. Sites of five acres or more:
- 14
- 15 a. There shall be a landscaped setback along all streets of no less than 20 feet.
- 16
- 17 b. The landscaped setback shall not be counted toward the landscaping required as a
- 18 result of paving.
- 19
- 20 c. All other requirements [shall be the] same as 1.b. and 1.c. above.
- 21
- 22 B. In a nonresidential zone, a solid wall or a solid fence at least six feet high shall be erected on
- 23 sides abutting a single family residential use, except for those sides abutting public right-of-
- 24 way. However,
- 25
- 26 1. To allow for unobstructed vision, such wall or fence shall be three feet high in the area
- 27 within 11 feet of a public pedestrian way or planned public pedestrian way location.
- 28
- 29 2. If the wall or fence, plus retaining wall, would have an effective height of over eight feet
- 30 on the residential side, the Zoning Administrator shall decide the acceptable height; such
- 31 decision may be made by the same process and criteria required for a conditional use.
- 32
- 33 C. The Zoning Administrator may approve an alternate landscaping plan which locates the
- 34 buffer landscaping away from the residential/nonresidential boundary if he finds that:
- 35
- 36 1. Noise, lighting and sight buffering of the residential zone can be accomplished at least as
- 37 well with the alternate plan.
- 38
- 39 2. The alternate landscaping plan does not result in less landscaped area than would have
- 40 been required with the normal six-foot landscaping strip; and
- 41
- 42 3. There is a solid wall or fence at least six feet high along all segments of the
- 43 residential/nonresidential boundary which does not have the standard buffer landscaping
- 44 strip.
- 45

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- 1 D. The landscaped buffer between residential and office, commercial, industrial, and
2 multifamily residential uses shall consist primarily of trees 1 1/2-inch minimum caliper,
3 measured at two feet above ground level, and/or shrubs, five gallon minimum size. The trees
4 or shrubs shall form a largely opaque screen. However within a clear sight triangle, the trees
5 or shrubs shall be maintained to a height of no higher than three feet.
6
7 E. Landscaping which dies shall be replaced by the property owner who is obligated to provide
8 it as expeditiously as possible, but in no case longer than 30 days after notification. If the 30-
9 day period falls at a time of the year when planting of landscaping is inadvisable, a waiver
10 may be granted by the Zoning Administrator to allow planting at the earliest possible time.
11 The waiver and date of the planting deadline shall be recorded by the County Zoning Office.
12
13 F. The landscaping strip shall not eliminate the requirements for a six-foot fence or wall if
14 parking is adjacent to the landscaping strip.
15
16 G. Parking spaces within a parking lot shall be no more than 50 feet from a tree.
17
18 H. Nonconforming Landscaping. Premises which, when they were developed, were not required
19 to be developed in accordance with the Landscaping and Buffer Landscaping Regulations
20 Section of this ordinance, shall be made to conform with this regulation within two years due
21 to the amendment of the map or text of this ordinance.
22

23 Section 20. Overlay Zone.
24

- 25 A. The following Overlay Zones apply to areas where they are mapped in addition to the
26 provisions of another zone. Where the provisions of Overlay Zones conflict with the
27 provisions of another section of this Ordinance, the provisions of the Overlay Zone shall
28 apply.
29
30 1. AP Airport Protection Overlay Zone:
31
32 a. These overlay zones are appropriate to be used in the vicinity of airports. They are
33 particularly appropriate for essentially undeveloped land. The purpose of these zones
34 is to encourage land use patterns that will separate uncontrollable noise sources from
35 residential and other noise-sensitive areas and to facilitate the orderly development of
36 areas around airports.
37
38 b. The boundaries of the following overlay zones shall be based on expected airport area
39 intermittent noise levels, based on averaged ambient conditions existing and projected
40 aircraft operations. The effect of noise generated by any other specific land use is not
41 reflected in the Ldn contours which are used to establish the overlay boundaries.
42
43 c. AP-1:
44

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- (1) The AP-1 Airport Protection Overlay Zone may be mapped in areas which, due to the operation of aircraft, the noise rating is more than 75 Ldn.
- (2) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:
 - (a) Agriculture including incidental nonresidential facilities, except mink and poultry production.
 - (b) Fishing.
 - (c) Mining.
 - (d) Open Space.
 - (e) Parking of Vehicles.
 - (f) Transportation routes, including roads, rail lines, and plane runways or taxiways.

d. AP-2:

- (1) The AP-2 Airport Protection Overlay Zone may be mapped in areas where, due to the landing or takeoff of aircraft, the noise rating is over 65 and not more than 75 Ldn.
- (2) Permissive Uses. In addition to the limitations on development and use contained in the underlying zone, uses allowed in this overlay zone are limited to the following:
 - (a) Uses allowed in the AP-1 overlay zone.
 - (b) Cemetery.
 - (c) Commercial activity (including manufacturing, transportation facilities, retailing, services, utilities, warehousing and wholesaling) except:
 - i. Outdoor theaters and stadiums are not permitted.
 - ii. Hotels and motels are permitted only if: Construction techniques provide ten decibels extra noise reduction over the industry average for similar structures; certification of such reduction by a qualified architect, structural engineer, or acoustical engineer registered in the State of New Mexico shall be presented to show

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compliance; and if Airport hazard insurance is available to said establishments.

- e. Conditional Uses. Any permissive use or conditional use allowed by the underlying zone and not permissive in the overlay zone, provided that due to the particular nature of the use or the special character of the enclosing structure it is clear that:

(1) The use will not be adversely affected by noise expected to be generated by operation of aircraft; or

(2) A small amount of adverse effect from the noise expected to be generated by operation of aircraft is clearly outweighed by a special need for the use at the site proposed.

2. DO Design Overlay Zone:

- a. General. This overlay zone may be used for areas which deserve special design guidance but do not require complete design control of development; areas so zoned shall be at least 320 acres or they may be of any size specified by a plan adopted by the Extraterritorial Land Use Authority. This overlay zone shall meet at least two of the following three conditions:

(1) Contain highly scenic natural features or physical setting, or have highly significant views.

(2) Have development potential which is likely to require unusually complex coordination of flood control, transportation, open space, and urban land uses.

(3) Have a strong role in the development of the form of the metropolitan area: arterial street, corridors, or critical areas near urban centers or historic zones.

- b. Control. Design regulations, which control specified critical design aspects of the area, shall be adopted by the Extraterritorial Land Use Authority in the resolution applying the Design Overlay Zone to any given area. Such regulations shall be as specific as possible so that developers and designers will have a clear indication as to what development designs are acceptable. These regulations will address specified design criteria; total design control of development is not intended. Any construction or alteration of buildings or sites which would affect the exterior appearance of any lot within the overlay zone shall be consistent with the adopted regulations. However, building demolition shall not be controlled by the regulations.

- c. Advisory Design Guidelines. The Extraterritorial Land Use Authority, Extraterritorial Land Use Commission, or the Planning Director may promulgate advisory design guidelines to supplement the design regulations. Such guidelines need not necessarily

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be followed by developers, but their observance is suggested in order that development might fully achieve the design potential of the area.

- d. Procedure for Individual Premises. Required design review and approval shall be by the Planning Director. Approval as to compliance with the adopted design regulations shall be certified by signature.

Section 21. Off-Street Parking, Loading and Unloading Regulations.

A. Off-Street Parking Requirements. In all zones there shall be provided at the time any building or structure is erected or structurally altered (to the extent hereinafter provided), off-street parking spaces in accordance with the following requirements:

1. Amusement facility (other than drive-in theater, uses with fixed seating and those listed elsewhere in this section), including swimming pool, kiddieland, amusement park, miniature golf course, golf driving range: Two parking spaces, plus one additional space for each four persons accommodated by the facility during operation at full capacity.
2. Bowling alley. Four spaces for each alley.
3. Church or temple: One parking space for each four seats in the main auditorium.
4. Community center, library, museum or art gallery: Ten parking spaces, plus one additional space for each 300 square feet of floor area in excess of 2,000 square feet.
5. Dwelling. One parking space for each bathroom or fraction thereof provided in the dwelling, but not less than two spaces per dwelling unit.
6. Furniture, appliance or implement store, hardware store, wholesale establishment, machinery or equipment sales and service. Two parking spaces, plus one additional space for each 300 square feet of floor area over 1,000 square feet.
7. Hospital, sanitarium, or nursing home. One parking space for every two beds.
8. Manufacturing or industrial establishment, research or testing laboratory, creamery, bottling plant, warehouse, or similar establishment. Two parking spaces for each three employees on the maximum working shift plus space to accommodate all trucks and other vehicles used in connection therewith.
9. Medical or dental office, clinic, including veterinary clinic. Five parking spaces for each doctor.
10. Mortuary. One parking space for each 50 square feet of floor space in the parlors or individual funeral service rooms.

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11. Motel, hotel, tourist home or guest ranch. One parking space for each sleeping room or rental unit.
 12. Printing or plumbing shop or similar service establishment. One parking space for each three persons employed therein.
 13. Private club, lodge or union headquarters. One parking space for each five members.
 14. Restaurant, bar, nightclub, cafe, dance hall, skating rink or similar recreation or amusement establishment, or an assembly or exhibition hall without fixed seats. One parking space for each 100 square feet of floor area with fixed seats; one parking space for each four seats.
 15. Retail store, office (other than medical or dental), or personal service establishment not otherwise specified herein. One parking space for each 200 square feet of floor area.
 16. Rooming[house] or boardinghouse. One parking space for each two sleeping rooms.
 17. School. One parking space for each four seats in the main auditorium, or three spaces for each classroom, whichever is greater.
 18. Theater, auditorium, sports arena, stadium, gymnasium, rodeo arena, polo grounds. One parking space for each four seats or seating spaces.
 19. Mobile home park. Two parking spaces for each mobile home or dwelling unit.
 20. Flea market. One parking space per 200 square feet of sales area, plus one parking space for each separately rented sales space.
 21. Parking for bicycles. Residential uses; five or more dwelling units or mobile homes. One bicycle space per two dwelling units. Nonresidential uses; one bicycle space per each 20 off-street parking spaces required for each motor vehicle, unless otherwise specified below:
 1. Drive-in theater.
 2. Mortuary.
 3. Motel or hotel.
- B. Handicapped Parking Requirements. Parking spaces for vehicles with valid distinctive registration plates for the physically disabled as provided by NMSA 1978, § 66-3-16 shall be provided off-street in the amount indicated in 1 of this subparagraph and meeting the standards indicated in 2 of this subparagraph. While disabled parking configurations approved under prior zoning regulations will be considered conforming, no building permit shall be issued for new construction or renovation of a building resulting in an increase in required minimum number of parking spaces unless the parking lot has designated disabled

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parking spaces as described in this subparagraph. However, see 3 below as to newly required signs for existing off-street parking.

1. The minimum numbers of designated disabled parking spaces are as follows:

Total Parking Spaces Provided	Minimum Number of Accessible Spaces	Minimum Number of Accessible Spaces Required to be "Van Accessible"
1 -- 25	1	1
26 -- 50	2	1
51 -- 75	3	1
76 -- 100	4	1
101—150	5	1
151—200	6	1
201—300	7	1
301—400	8	1
401—500	9	2
501—1000	2 percent of total	1 in every 8 accessible spaces
1001 and OVER	20 plus 1 for each 100 over 1,000	1 in every 8 accessible spaces_____

2. Such spaces shall be:

- a. At least eight feet in width (96 inches) and 20 feet in length. Parking access aisles shall be part of an accessible route to the building or facility entrance. Two accessible parking spaces may share a common access aisle. Parking vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall be level with surface slopes not exceeding 1:50 (two percent) in all directions.
- b. The designated disabled parking spaces shall be located so as to provide convenient access, at least 36 inches wide, to a primary, accessible building entrance unobstructed by bumpers, curbs, or other obstacles to wheelchairs. The site design shall not permit parked vehicle overhangs or any other obstacle to reduce the clear width of adjacent walkways.
- c. Each disabled parking space shall be designated by its own conspicuously posted upright sign, either freestanding or wall mounted, showing the international disabled symbol of a wheelchair; it may include such wording as "disabled parking." Each sign shall be no smaller than 12 by 18 inches. Each sign shall have its lower edge no less than four feet above grade. Signs shall be maintained in good condition; in parking lots serving nonresidential uses, barriers shall protect freestanding signs from being hit by motor vehicles. However, for any such spaces required for dwelling parking, where the premises is required to have ten or fewer off-street parking spaces, no sign

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1 need be displayed so long as no person with need of a designated disabled parking
2 space is a resident on the premises.

3
4
5 C. General Rules for Determining Parking Requirements. In computing the number of off-street
6 parking spaces required, the following rules shall govern:

- 7
8 1. Where fractional spaces result, the parking spaces required shall be construed to be the
9 next higher whole number.
- 10
11 2. The parking space requirements for a use not specifically mentioned herein shall be the
12 same as that required for use of similar nature as determined by the Zoning
13 Administrator.
- 14
15 3. Whenever a building or use constructed or established after the effective date of this
16 ordinance is changed or enlarged in floor area, number of employees, seating capacity or
17 otherwise to create a need for an increase of ten percent or more in the number of existing
18 parking spaces, such space shall be provided on the basis of the enlargement or change.
19 Whenever a building or use existing prior to the effective date of this ordinance is
20 enlarged to the extent of 50 percent or more in floor area used, said building or use shall
21 then and thereafter comply with the parking requirements set forth herein.
- 22
23 4. In the case of mixed uses, the parking spaces required shall equal the sum of the
24 requirements of the various uses computed separately.
- 25
26 5. Each 30 inches of pew or bench space is considered one seat.

27
28 D. Location and Improvement of Parking Areas:

- 29
30 1. All parking spaces required herein shall be located on the same site with the building or
31 use served.
- 32
33 2. All open parking areas in R-2, O-1, C-2, C-1, M-1, and M-2 zones shall be surfaced with
34 a durable surface consisting of concrete or bituminous material.
- 35 3. Parking spaces shall be appropriately marked to indicate the location of the space.

36
37 E. Off-Street Loading and Unloading Spaces. Off-street loading and unloading spaces shall be
38 required as determined by the Zoning Administrator, and shall be so located that loading and
39 unloading activity will not block or restrict a public way.

40
41 F. Fire Lanes and Emergency Vehicle Parking. Whenever a building or use constructed or
42 established after the effective date of this ordinance shall then and thereafter provide Fire
43 Lanes and/or Emergency Vehicles parking as required by the Bernalillo County Fire
44 Department or their designee.

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Section 22. Supplemental Height and Area Regulations

A. The regulations set forth in this section qualify or supplement the zone regulations appearing elsewhere in this ordinance.

B. Modification of Height Regulations:

1. The height regulations as prescribed in this ordinance shall not apply to:

- a. Amateur or noncommercial radio towers.
- b. Belfries.
- c. Chimneys.
- d. Church spires.
- e. Silos.
- f. Conveyors.
- g. Cooling towers.
- h. Elevator bulkheads.
- i. Fire towers.
- j. Flagpoles.
- k. Monuments.
- l. Ornamental towers and spires.
- m. Smokestacks.
- n. Stage towers or scenery lofts.
- o. Tanks.
- p. Water towers.
- q. Windmills.

2. Public, semipublic, or public service buildings, hospitals, institutions, or schools, when permitted in a zone, may be erected to a height not exceeding 60 feet. Churches may be erected to a height not exceeding 75 feet when the required side and rear yards are each increased by at least one foot for each foot of additional building height regulations for the zone in which the building is located.

3. A wall or fence may be built within the required setback, provided it does not exceed eight feet in height and does not in the opinion of the Zoning Administrator create a traffic hazard at intersections of streets and driveways.

C. Special height and use regulations near airports are contained in the Albuquerque Sunport Zoning Ordinance.

D. Modification of Area Regulations:

1. Yards, General:

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- a. Whenever a lot abuts upon a public alley, one-half of the alley width may be considered as a portion of the required rear yard.
- b. In the event that a lot is to be occupied by a group of two or more related buildings to be used for residential, institutional, hotel, or motel purposes, there may be more than one main building on the lot when such buildings are arranged around a courtyard; provided, however, that said courtyard between buildings that are parallel or within 45 degrees of being parallel shall have a minimum width of 15 feet for one-story buildings, 20 feet for two-story buildings, and 30 feet for three-story buildings.
- c. Where a lot is used for a commercial or industrial purpose, more than one main building may be located on the lot, but only when such buildings conform to all open space requirements around the lot for the zone in which the lot is located.
- d. Where a lot has an area equivalent two or more times than required by this ordinance, but is without sufficient width for two or more lots, more than one dwelling shall be permitted, provided the following requirements are met:
 - (1) All height, area, and yard requirements, except lot width, shall be complied with.
 - (2) The minimum distance between buildings shall be 50 feet.
 - (3) A strip of land at least 22 feet wide, measured at right angles to either side lot line and extending from the street line to the rear portion of the lot, shall be reserved as a means of access.
 - (4) Said lot shall be subdivided in accordance with the requirements of the zone.

2. Accessory Building and Structures:

- a. Except as herein provided, no accessory building shall project beyond a required yard line along any street.
- b. Service station pumps and pump islands may occupy the required yards provided, however, that they are not less than 12 feet from street lines.
- c. Accessory, open and uncovered swimming pools may occupy a required rear yard provided they are not located closer than ten feet to the rear or side lot line and provided they are surrounded by a duly approved wall or fence at least six feet high.
- d. Accessory buildings which are not a part of the main building although connected by an open breezeway may be constructed in a rear yard, provided such accessory building does not occupy more than 30 percent of the area of the required rear yard, and provided it is not located closer than five feet to the rear or side lot line.

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e. Any accessory building which does not contain living quarters may be located nearer than five feet to the side or rear lot lines, provided it complies with the following requirements:

(1) The wall of any such building adjoining a side or rear lot line which is not a street or alley line shall be fire-resistive to the standard of a one-hour rating.

(2) The wall of any such building adjoining a side or rear lot line shall contain no provision for ingress or egress unless special approval is granted by the Zoning Administrator.

(3) If there is no common wall between accessory buildings, or if the walls are not adjoining, there shall be at least five feet between such buildings.

f. Any accessory building shall be at least ten feet from any dwelling or accessory living quarters except that any accessory building which does not contain living quarters may be closer than ten feet to another accessory building which does not contain living quarters; provided, however, that if there is no common wall between such accessory buildings or if the walls are not adjoining, there shall be at least five feet between the accessory buildings. No accessory building may extend across the width of the yard unless a passage of at least five feet is provided at some point along such width.

3. Front Yards:

a. Where an official line has been established for the future widening or opening of a street upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.

b. Garages detached or attached to the main building and entering on the side street of a corner lot shall maintain a setback of 20 feet in front of the garage.

c. The front yards heretofore established shall be adjusted in the following cases:

(1) Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with two or more buildings that have (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall be so established by the existing building nearest the street line.

(2) Where 40 percent or more of the frontage on one side of a street between two intersecting streets is developed with two or more buildings that have a front yard of less depth than herein required, then: Where a building is to be erected on a parcel of land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of

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the adjacent building on each side; or where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.

Section 23. Nonconforming Uses.

A. Non-conforming Uses which were permitted by the Board of County Commissioners and for which plans are on file with the Bernalillo County Zoning, Building and Planning Department may continue under whatever terms or conditions were imposed by the Zoning Administrator.

B. Nonconforming Building or Structure:

1. Any building or structure nonconforming as to use shall be removed or converted to a conforming building or structure no later than May 20, 2033 or within 35 years after the effective date of any amendment to this ordinance which creates a non-conforming use except:

- a. Any nonconforming billboards or advertising structures which occupy land zoned for or intended to be used for commercial or industrial purposes (including A-1 within 1,000 feet of industrial or commercially zoned land); and which are not in conflict with the size setback and spacing provisions for advertising structures set forth in this ordinance; and which became nonconforming by virtue of the passage of the Bernalillo County Zoning Ordinance may remain for the life of the existing structure providing that it is in compliance with both State and Federal requirements controlling setback, size, lighting, and spacing.

2. Any nonconforming building or structure may be maintained, repaired, or altered, provided that any building or structure nonconforming as to use shall not be structurally altered except as required by law.

3. Any building or structure nonconforming as to use shall not be added to or enlarged unless such building or structure afterwards is converted to a conforming use. If a lot is occupied by both a conforming and a nonconforming structure, detached accessory buildings may be built, provided they are clearly incidental to the conforming use and do not exceed 25 percent of the floor area of the conforming use.

4. Any building or structure nonconforming only as to height regulations shall not be added to or enlarged unless such addition or enlargement conforms to all of the regulations of the zone in which it is located.

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5. Any building or structure nonconforming only as to yard requirements shall not be added to or enlarged except in compliance with the following requirements:

a. Any such addition or enlargement shall conform to all the regulations of the zone in which the building or structure is located.

b. The total aggregate floor area included within all such separate additions or enlargements shall not exceed 50 percent of the floor area of the original nonconforming building or structure.

6. Any nonconforming building or structure may be moved in whole or in part to another location on the lot, provided that every portion of such building or structure which is moved is made to conform to all of the regulations of the zone in which it is located, or in the event such moving will make it nonconforming to a lesser extent.

7. Any nonconforming building or structure which is damaged by fire, flood, wind, earthquake, or other calamity or act of God or public enemy, may be restored, but not to an extent greater than the original floor area which existed at the time of the damage, provided such restoration shall be started within six months of the damage and shall be prosecuted diligently to completion.

C. Nonconforming Use of Building or Structure:

1. Any building or structure nonconforming as to use regulations which hereafter becomes vacant and remains unoccupied or is not used for a continuous period of one year or more shall not thereafter be occupied except by a conforming use.

2. The use of any nonconforming building or structure may be changed to another use permitted in the same or more restrictive zone.

D. Nonconforming Due to Amendment. The foregoing provisions of this subsection also apply to any building, structure, or use which becomes nonconforming due to any amendment of the text of this ordinance or the zone map, excluding special use permits; provided, however, that where a period of years is specified in this subsection for the removal of nonconforming buildings, structures, or uses, said period shall be computed from the date such amendment became effective.

Section 24. Administration.

A. Zoning Administrator:

1. **Creation of the Office.** There is created hereby the office of Zoning Administrator. The Zoning Administrator shall be hired by the County Manager in accordance with the provisions of the County Personnel Ordinance.

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- 1 2. Powers and Duties. The County Zoning Administrator and his designees shall enforce
2 this ordinance, and in addition thereto and in furtherance of said authority, shall:
3
- 4 a. Issue all zoning certificates as required, and make and maintain records thereof.
5
- 6 b. Issue all certificates of occupancy as required, and make and maintain records
7 thereof.
8
- 9 c. Conduct inspection of buildings, structures, and the use of land to determine
10 compliance with these regulations. This provision does not grant right of entry
11 without due process.
12
- 13 d. Maintain permanent and correct records of this ordinance, including but not limited to
14 all maps, amendments, and conditional use permits, variances, and appeals.
15
- 16 e. Provide and maintain a public information bureau relative to all matters arising out of
17 this ordinance.
18
- 19 f. Issue certificates of occupancy for nonconforming uses existing at the effective date
20 of this ordinance
21
- 22 g. In the event any building or structure is erected, constructed, reconstructed, altered,
23 repaired, converted or maintained, or any building, structure or land is used in
24 violation of this ordinance, in addition to other remedies, may initiate any appropriate
25 action or proceeding to prevent such unlawful action, to restrain, correct or abate such
26 violation, to prevent the occupation of such building, structure, or land, or to prevent
27 any illegal act, conduct, business, or use in or about such premises.
28
- 29 h. Investigation of Applications:
30
- 31 (1) Investigate all applications for variances from the height, area, parking or density
32 regulations of this ordinance, and to grant such applications to the extent
33 necessary to permit the owner reasonable use of his land in those specified
34 instances where there are peculiar, exceptional, and unusual circumstances in
35 connection with a specific parcel of land, which circumstances are not generally
36 found within the locality or neighborhood concerned.
37
- 38 (2) Investigate all applications for variances from the nonconforming use provisions
39 of this ordinance where the application is for an extension of time of the time
40 limitations authorized by the Nonconforming Use Regulations Section of this
41 ordinance and to grant such applications if the use does not seriously conflict with
42 the character of the surrounding area.
43
- 44 i. Investigate all applications for conditional use permits authorized in this ordinance,
45 and grant such applications if he finds:

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- (1) That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, open spaces, walls and fences, parking, loading, landscaping, and other features required by this ordinance to adjust such use to the land use pattern in the neighborhood.
 - (2) That the site for the proposed use can be developed in such manner that undue traffic congestion or hazards will not be created.
 - (3) That the proposed use will have no adverse effect on the neighborhood or seriously conflict with the character of the area.
 - (4) That any conditions are deemed necessary to protect the public health, safety, and general welfare. Such conditions may include requirements relative to:
 - (a) Open space and buffers.
 - (b) Walls and fences.
 - (c) Surfacing of parking areas.
 - (d) Location of points of vehicular egress and ingress.
 - (e) Signs.
 - (f) Landscaping and maintenance thereof.
 - (g) Noise, vibration, odor, and health hazards.
 - (h) Such other conditions as will make possible the development of the county in an orderly, efficient manner, and in conformity with the intended purpose of this ordinance.
- j. Authorize amendments to approved special use development plans with the concurrence of the Planning Department, provided:
- (1) That any such amendment shall result in an equal or less intense use of land than that first approved by the Board of County Commissioners or the Extraterritorial Land Use Authority ; and
 - (2) That no minimum requirement or additional requirement imposed on any development plan by the Bernalillo County Board of County Commissioners or the Extraterritorial Land Use Authority would be modified.
3. Application Procedures and Filing Fees:
- a. Applications. An application for a variance or conditional use permit shall be filed with the Zoning Administrator on a form and accompanied by such data and information as he may prescribe.
 - b. Procedures. Wrong or incomplete information may cause a delay in the hearing process. It is suggested that the applicant have an informal consultation with Planning

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Department staff before filing an application in order to be informed of any requirements or policies relevant to the request. An application shall include the following information:

(1) The name, address, and telephone number of the applicant and/or agent.

(2) The legal description and uniform property code number of the property.

(3) A plot plan delineating the boundaries of the property and all existing and proposed improvements.

4. A written statement which justifies the request.

5. Any additional information deemed necessary by the Zoning Administrator for reviewing the request.

6. Certification from the County Environmental Health Department, Public Works Department, Floodplain Administrator, Albuquerque Metropolitan Arroyo Flood Control Authority, relative to their respective ordinances.

c. Filing Fees:

(1) A fee of \$75.00 shall be paid at the time an application for a variance or a conditional use permit is filed except for applications for conditional use involving more than one dwelling unit or mobile home per lot.

(2) A fee of \$100.00 shall be paid at the time an application for a conditional use permit is filed for one mobile home in addition to an existing single-family dwelling or mobile home on one lot.

d. When an application is withdrawn after scheduling and advertising for public hearing by the Zoning Administrator, the filing fee shall not be refunded to the applicant. When an application is withdrawn before such advertisement all but \$25.00 of the fee shall be refunded.

4. Hearing. Public hearing on all applications for a variance or conditional use permit shall be held by the Zoning Administrator in accordance with the procedures herein described:

1. The Zoning Administrator shall fix a regular time and place for hearings.

2. Public notice of the hearing at which the application is to be considered must be given by at least one publication in a daily newspaper of general circulation in Bernalillo County at least 15 days prior to the hearing.

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3. Written notice of the hearing shall be mailed not less than five days before the date of the hearing to the owners of all property within 200 feet of the exterior boundaries, excluding public rights-of-way of the property which is the subject of the application. For this purpose the last known name and address of such owners shown in the records of the Bernalillo County Assessor shall be used. The above described notification radius shall be increased to 300 feet for the application for Conditional Use that could result in more than one dwelling unit or mobile home per lot. When any of the property immediately beyond the radius herein is under the same ownership as the property that is the subject of the application, the owner of the property next adjacent, disregarding public ways, also shall be notified. The applicant must post and maintain one or more signs as provided by the office of the Zoning Administrator at least 15 days before and after the date of the hearing by the Zoning Administrator. The applicant is responsible for removal of the sign(s) 16 days after the hearing. Failure to properly post and maintain the sign(s) is grounds for deferral or denial of the request. The office of the Zoning Administrator shall issue Sign Posting Instructions. The office of the Zoning Administrator must keep minutes of its proceeding and the minutes must be public records.
 5. Determination by the Zoning Administrator. Upon making a ruling or determination relative to an application for a variance or conditional use permit or any other matter under his jurisdiction, the Zoning Administrator shall forthwith furnish a copy thereof to the applicant and the Extraterritorial Land Use Commission. Such determination shall be final except that an appeal may be taken as provided in the next subsection. After an application for conditional use or variance is advertised for public hearing by the Zoning Administrator another application affecting the same property shall not be filed within a period of 12 months from the date of advertisement.
 6. Appeals. An appeal of a determination of the Zoning Administrator may be made in the manner prescribed in the following subsection. No variation or conditional use permit shall become effective until after an elapsed period of 15 days from the date the written determination is made, during which time an appeal may be filed with the Extraterritorial Land Use Commission by any person aggrieved, or by any office, board, department or bureau of the County. Permissive uses listed within each zoning category may not be appealed.
- B. Extraterritorial Land Use Commission:
1. The Extraterritorial Land Use Commission (ELUC) consists of ten members, five from the City's Environmental Planning Commission and five from the County's Planning Commission. Members shall be appointed by the Board of County Commissioners and the City Council respectively. Members' terms on the ELUC shall be concurrent with their terms on the respective planning commissions. Members of the Commission shall serve without compensation. A member of the Extraterritorial Land Use Commission may be removed by the affirmative action of their appointing bodies. Annually, in January, the Extraterritorial Land Use Commission shall elect a chairman and vice-chairman.

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- 1
- 2 2. The Extraterritorial Land Use Commission shall fix a reasonable and regular time and place
- 3 for hearings, and it shall adopt such rules as may be necessary and proper to govern its
- 4 proceedings. Such rules shall be in conformance with requirements of this ordinance. All
- 5 meetings shall be open to the public. The Extraterritorial Land Use Commission shall keep
- 6 minutes of its proceedings, including a record of the vote of each member on each action, and
- 7 such minutes shall be public records.
- 8
- 9 3. Powers and Duties. The Extraterritorial Land Use Commission shall have the following
- 10 powers:
- 11
- 12 a. To hear and determine appeals where it is alleged there is error or abuse of discretion in
- 13 any order, requirement, decision or determination made by the Zoning Administrator in
- 14 the enforcement of the provisions of the ordinance.
- 15
- 16 b. To hear and determine appeals from the rulings, decisions, and determinations of the
- 17 Zoning Administrator granting or denying applications for variation from any
- 18 requirements of this ordinance or granting or denying applications for conditional use
- 19 permits authorized by this ordinance.
- 20
- 21 c. To study planning matters affecting the extraterritorial area and means of protecting and
- 22 improving the environment.
- 23
- 24 d. To advise the Extraterritorial Land Use Authority concerning annexation, planning,
- 25 platting (subdivision), and zoning.
- 26
- 27 e. To carry out other duties related to planning and platting jurisdiction, subdivision and
- 28 extraterritorial zoning as directed by the Extraterritorial Land Use Authority.
- 29
- 30 4. Appeals:
- 31
- 32 a. An appeal shall be made in writing and shall be filed in duplicate in the office of the
- 33 Zoning Administrator on forms provided by the Extraterritorial Land Use Commission.
- 34 Such appeal must set forth specifically wherein it is claimed there was an error or an
- 35 abuse of discretion by this action, or where the decision is not supported by evidence in
- 36 the matter. A filing fee of \$75.00 shall accompany each appeal on lots of one acre or less.
- 37 A fee of \$100.00 on all other appeals. When an appeal is withdrawn, the filing fee shall
- 38 not be refunded.
- 39
- 40 b. Any appeal not filed within 15 days after the rendition in writing of the decision appealed
- 41 from shall be dismissed by the Extraterritorial Land Use Commission.
- 42
- 43 c. Within ten days after the filing of the appeal, the Zoning Administrator shall transmit to
- 44 the Extraterritorial Land Use Commission all papers involved in the proceedings, a copy
- 45 of his findings and determination relative thereto, and one copy of the appeal. In addition,

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1 he may make and transmit to the Extraterritorial Land Use Commission such
2 supplementary report as he may deem necessary to present clearly the facts and
3 circumstances of the case.
4

5 d. Upon receipt of the record, the Extraterritorial Land Use Commission shall set the matter
6 for hearing and give notice by mail of the time, place, and purpose thereof to the
7 appellant, to the Zoning Administrator, and to any interested party who has requested in
8 writing to be so notified. No other notice thereof need be given except in those cases
9 hereinafter mentioned. In cases where the appeal is from a determination granting or
10 denying a variance or a conditional use, the Extraterritorial Land Use Commission shall
11 not reverse or modify, in whole or in part, any determination of the Zoning Administrator
12 unless notice of the time, place, and purpose of the hearing has been given in the same
13 manner as prescribed for the holding of hearings before the Zoning Administrator.
14

15 e. Upon hearing of such appeals, said Extraterritorial Land Use Commission may affirm,
16 change, or modify the ruling, decision or determination appealed from, or, in lieu thereof,
17 make such other or additional determination as it shall deem proper in the premises.
18

19 f. The decision of the Extraterritorial Land Use Commission upon the appeal shall be in
20 writing, concurred in by a majority of the members present of the Extraterritorial Land
21 Use Commission, which shall forthwith transmit a copy thereof to the appellant and to
22 the Zoning Administrator. Any such decision may be appealed to the Extraterritorial
23 Land Use Authority as prescribed in the following subsections:
24

25 (1) An appeal of a determination of the said Extraterritorial Land Use Commission may
26 be submitted in writing to the Extraterritorial Land Use Authority within 15 days
27 from the date of the written determination by the Extraterritorial Land Use
28 Commission. The day of written determination by the Extraterritorial Land Use
29 Commission shall not be included in the 15 day period of filing an appeal, and if the
30 fifteenth day falls on a Saturday, Sunday, or holiday, the next working day shall be
31 considered as the deadline for filing the appeal. A building permit or Certificate of
32 Occupancy and Compliance shall not be issued until any appeal is decided, or the
33 time of filing such appeal has expired.
34

35 a. Written notice of an appeal from the Extraterritorial Land Use Commission to the
36 Extraterritorial Land Use Authority shall be filed with the Office of the Zoning
37 Administrator. A filing fee of \$100.00 shall accompany the appeal.
38

39 b. The Public must be notified of the hearing at which the appeal is to be considered.
40 The County must publish this notice at least one time, and at least 15 days before
41 the hearing, in a daily newspaper of general circulation in Bernalillo County.
42

43 c. When an appeal is withdrawn by the appellant after scheduling and advertising for
44 public hearing by the Extraterritorial Land Use Authority, the filing fee shall not
45 be refunded to the appellant.

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- d. Staff shall submit the appeal to the Extraterritorial Land Use Authority within 3 months after the appeal is filed.
 - e. Any such decision by the Extraterritorial Land Use Authority shall, in all instances, be the final administrative decision and shall be subject to judicial review as may be provided by law.
- (2) Upon hearing of the appeal, said Extraterritorial Land Use Authority may affirm, deny, change, or modify the ruling, decision or determination of the Extraterritorial Land Use Commission, or in lieu thereof, make such other or additional determination as it shall deem proper.
- a. When the Extraterritorial Land Use Commission has voted on an appeal, and has issued a written determination on the appeal item, and this determination is appealed to the Extraterritorial Land Use Authority, a five member majority vote of the members of the Extraterritorial Land Use is required to effect a zoning change where a written protest of the action is signed by each of the equitable owners of record of land comprising at least:
 - (1) Twenty percent of the land proposed for a land use change, or
 - (2) Twenty percent of the land not proposed for a land use change but within 100 feet, excluding public right-of-way, of the land proposed for a change in use.
 - b. Where the appellant does not present clear and convincing evidence of having met the criteria listed in (1) or (2) immediately above, a four member majority vote of the Extraterritorial Land Use Authority is required to affirm or reverse a determination of the Extraterritorial Land Use Commission.
- g. No determination of the Zoning Administrator or the Extraterritorial Land Use Commission permitting the alteration or erection of a building under a variance or conditional use permit shall be valid for a period longer than six months, unless a building permit for such alteration or erection is obtained within such period, and such alteration or erection is started and proceeds to completion in accordance with the terms of such permit.
- h. No determination of the Zoning Administrator or Extraterritorial Land Use Commission permitting a use of a building or premises under a variance or conditional use permit shall be valid for a period longer than six months, unless such use is established within such period, provided, however, that where such use is dependent on the re-erection or alteration of a building, such determination shall continue in force and effect if a building permit for said erection or alteration is started and proceeds to completion in accordance with the terms of such permit.

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- i. The ELUA may hear appeals of Board of Adjustment decisions rendered prior to May 20, 1998 consistent with the procedures enumerated in this section.

C. Zoning Certificates:

1. Except as hereinafter provided, no permit pertaining to the use of land or buildings shall be issued by the Zoning Administrator unless the application of such permit has been examined by the office of the Zoning Administrator, and has affixed to it a certificate of the office of the Zoning Administrator indicating that the proposed building, structure or use complies with all the regulations of this ordinance. Where no other permit is required for the use of land, this zoning certificate shall be construed as the permit to so use the land. Any permit or certificate of occupancy issued in conflict with the provisions of this ordinance shall be null and void.
2. Plot Plans. All applications for building permits shall be accompanied by a plot plan in duplicate showing, with dimensions, the lot lines, building or buildings, location of buildings on the lot, and such other information as may be necessary to provide for the enforcement of this ordinance including, if necessary, a boundary survey and the staking of the lot by a competent surveyor or engineer. The plot plans shall contain suitable notations indicating the proposed use of all land and buildings. A record of the original copy of such applications and plot plans shall be kept in the office of the Zoning Administrator, and a duplicate copy shall be kept at the building at all times during construction.
3. Building or Use Permit:
 - a. No vacant land shall be occupied or used, except for open land agricultural purposes as permissive in the A-1 and A-2 zones, until a Building or Use Permit shall have been issued by the office of the Zoning Administrator.
 - b. No premises shall hereafter be used and no buildings hereafter erected or structurally altered shall be used, occupied, or changed in use until a Building or Use Permit shall have been issued by the Office of the Zoning Administrator stating that the building or premises complies with the provisions of this ordinance.
 - c. No Use Permit will be required for any residential use of an existing building, a modular home or a mobile home.
 - d. Building or Use Permit shall be applied for coincident with the applications for a zoning certificate and shall be issued within ten days after the erection or structural alterations of such buildings shall have been completed in conformity with the provisions of this ordinance.
 - e. No permit for excavation for any building shall be issued before application has been made for a Building or Use Permit.

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f. The Zoning Administrator shall issue a certificate of occupancy for any building or premises existing at the effective date of this ordinance certifying, after inspection, the extent and kind of use made of the building or premises and whether such use conforms to the provisions of this ordinance.

g. Fees for building permits and certificates of occupancy. For each permit to erect, construct, reconstruct, alter or change the use of any building, structure or land within any portion of the unincorporated area of Bernalillo County, for which a permit is not required by the Bernalillo County Uniform Building Code, a fee shall be charged according to the following schedules:

(1) Buildings:

(a) Accessory building with a gross floor area of 250 square feet or less (See fee schedule).

(b) The fee for alteration, remodeling, or additions to existing buildings shall be the same as the fee required for an initial permit for accessory buildings.

1. Mobile homes having a gross floor area of 500 square feet or less (See fee schedule).

2. Mobile homes having a gross floor area of more than 500 square feet and not over 1,200 square feet (See fee schedule).

3. For mobile homes with a gross floor area of more than 1,200 square feet an additional fee of \$2.00 for each 500 square feet of floor area or fraction thereof in excess of 1,200 square feet.

(2) Uses:

(a) The fee for a certificate of occupancy for a new nonresidential use, or a change of nonresidential use of buildings or land, shall be (See fee schedule).

(b) The fee for a certificate of nonconforming use of a building or land which lawfully existed on the effective date of those regulations with which it does not conform, shall be (See fee schedule).

(c) The fee for a certificate of home-occupation, shall be (See fee schedule).

(3) Structures Other Than Buildings:

(a) Signs, on-premises or off-premises (See fee schedule):

1 to 39 square feet

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Over 39 to and including 59 square feet
Over 59 to and including 79 square feet
Over 79 to and including 99 square feet
Over 99 to and including 119 square feet
Over 119 to and including 139 square feet
Over 139 to and including 159 square feet
Over 159 square feet

Off-premises signs and on-premises freestanding signs exceeding 32 square feet per sign face shall meet the requirements of the Bernalillo County Building Ordinance.

(b) Walls. The fee for construction of a wall or fence shall be \$10.00 or ten cents a linear foot whichever is greater but in no instance shall it exceed \$25.00.

(4) Penalty. An additional fee of \$100.00 will be charged on any application which is the direct result of a violation of this ordinance.

Section 25. Amendments.

A. The Extraterritorial Land Use Authority may, from time to time, amend, supplement, or change by ordinance the boundaries of the zones or the regulations herein established. Any proposed amendment, supplement, or change shall first be submitted to the Extraterritorial Land Use Authority for its recommendation and report.

B. Application and Fee:

1. Any application made to the Extraterritorial Land Use Authority for an amendment to the text of this ordinance or of the official Zone Map shall be in writing on forms prescribed by the Extraterritorial Land Use Commission. It is suggested that the applicant or his designee have an informal consultation with the assigned staff of the City and County planning departments Zoning Division before filing an application for a text change of this ordinance or of the official Zone Maps in order to be informed of any plans and policies relevant to the amendment request. Submission of inaccurate material or information with the application shall be grounds for denial. The application shall include the following information:

(a) The name, address and telephone number of the applicant or designee.

(b) The legal description and the uniform property code number in the request. An application relating to the unplatted land shall be accompanied by a plat delineating the boundaries of the area requested to be amended.

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(c) Each application for a Zone Map change shall be accompanied by an accurate plot plan, site plan, a building elevation plan, and a program of development, and landscape plan.

(d) Any additional information deemed necessary by the Extraterritorial Land Use Commission or by this ordinance.

(e) A written discussion which supports the requested change.

2. A fee for a Zone Map change shall be charged as follows:

(a) Less than five acres: \$200.00 for the first acre or less, plus \$25.00 for each additional acre or portion thereof.

(b) Five acres but less than 20 acres: \$300.00 for the first five acres, plus \$15.00 for each additional acre or portion thereof.

(c) Twenty acres but less than 60 acres: \$875.00 for the [first 20 acres, plus \$10.00 for each additional acre] or portion thereof.

(d) Sixty acres or more: \$975.00 for the first 60 acres[, plus \$5.00 for each additional acre or portion] thereof.

An application for an overlay zone shall be one-fourth of the above fee. An application fee of \$200.00 shall accompany a request for a change to the text of the Zoning Ordinance. Applications for amendment of the official zone map may be made only by Extraterritorial Land Use Authority or their designated representative on behalf of Bernalillo County and the City of Albuquerque, or by a person with a direct financial, contractual, or proprietary interest in the affected property. The Extraterritorial Land Use Commission may not be applicant for an amendment of the official zone map. The Zoning Administrator may not be an applicant for any matter which he would hear. When an application is withdrawn before advertisement, all but \$25.00 of the fee shall be refunded. When an application is withdrawn after scheduling and advertising for public hearing by the Extraterritorial Land Use Commission, the filing fee shall not be refunded to the applicant. After an applicant's petition for rezoning or for a text change is advertised for public hearing by the Extraterritorial Land Use Commission, another petition for a change affecting the same property shall not be filed within a period of 12 months from the date of final action by the Extraterritorial Land Use Authority or the date of the initial advertised hearing if no action was required by Extraterritorial Land Use Authority.

C. Hearings. A public hearing on all applications for a text change to the ordinances or the change of the Official Zone Map, shall be held by the Extraterritorial Land Use Commission in accordance with the procedures herein described:

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1 (1) The Extraterritorial Land Use Commission must fix a regular time and place for regular
2 hearings. Special public hearings may be held at other than the established regular time or
3 place provided public notice of the hearing is given at least 24 hours in advance.
4

5 (2) Public notice of the hearing at which the application is to be considered must be given by
6 at least one publication in a daily newspaper of general circulation in Bernalillo County at
7 least 15 days before the date of the hearing; and
8

9 (3) Public notice of hearing by certified mail return receipt requested, not less than five days
10 before the date of the hearing to the owners of all property from the exterior boundaries
11 of the area proposed excluding public rights-of-way to be changed, using for these
12 purposes the last known name and address of the owner shown in the record of the
13 Bernalillo County Assessor. For properties that are less than two acres in area the
14 notification radius shall be 200 feet, for properties in excess of two acres the notification
15 radius shall be 500 feet. When any of the property immediately beyond the radius
16 described herein is under the same ownership as the property that is the subject of the
17 application, the owner of the property next adjacent, disregarding public ways, also shall
18 be notified.
19

20 (4) The applicant must post and maintain one or more signs as provided by the Zoning
21 Administrator at least 15 days before and after the date of the hearing by the
22 Extraterritorial Land Use Commission . The Applicant is responsible for removal of the
23 sign(s) 16 days after the hearing. Failure to properly post and maintain signs is grounds
24 for deferral or denial of the request. The Zoning Administrator shall issue Sign Posting
25 Instructions.
26

27 D. Procedure. The Extraterritorial Land Use Commission shall make its decision on each
28 application, and in the event of approval shall make a recommendation to the Extraterritorial
29 Land Use Authority. Approval of any application shall not be construed as approval of a
30 Building Permit or Certificate of Occupancy.
31

32 (1) The Extraterritorial Land Use Authority shall sustain the recommendations of the
33 Extraterritorial Land Use Commission without modification unless (1) the
34 recommendation is appealed, or (2) by majority vote of the members present, designate
35 an item for review be on the record but may allow new evidence by the parties.
36

37 (2) The Extraterritorial Land Use Commission must keep minutes of its proceedings,
38 including a record of the vote of each member on each question, and the minutes must be
39 public. All materials and documents submitted to the Extraterritorial Land Use
40 Commission shall become part of the record.
41

42 (3) Recommendation for any application for a change to the Official Zone Map shall be void
43 if not submitted to the Extraterritorial Land Use Authority within six months after the
44 date of determination by the Extraterritorial Land Use Commission, or if not acted upon

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1 by the Extraterritorial Land Use Authority within three months after receipt of a
2 recommendation from the Extraterritorial Land Use Commission.
3

4 E. Appeals. Appeal of any denial or approval of an application by the Extraterritorial Land Use
5 Commission may be submitted in writing to the Extraterritorial Land Use Authority within
6 15 days after the date of determination by the Extraterritorial Land Use Authority. The day
7 of determination by the Extraterritorial Land Use Authority shall not be included in the 15-
8 day period for filing an appeal, and if the 15th day falls on a Saturday, Sunday, or holiday,
9 the next working day shall be considered as the deadline for filing the appeal. A building
10 permit or Certificate of Occupancy and Compliance shall not be issued until any appeal is
11 decided, or the time for filing such appeal has expired.
12

13 F. When the Extraterritorial Land Use Commission has voted on a land use change and this
14 action is appealed, a -five member majority vote to the members of the Extraterritorial Land
15 Use Authority is required to defeat an appeal where a written protest of the action is signed
16 by each of the equitable owners of record of land comprising at least:
17

18 (1) Twenty percent of the land proposed for change in zone; or
19

20 (2) Twenty percent of the land not proposed for zone change but within 100 feet, excluding
21 public right-of-way, of the land proposed for change in zone.
22

23 (3) Where there is a reasonable doubt as to whether (1) or (2) of this paragraph have been
24 met and the appellant does not present clear and convincing evidence of having met the
25 standards of this paragraph (3), the Extraterritorial Land Use Authority may proceed
26 under the terms of paragraph a. of this subsection.
27

28 a. Unless paragraph (3) above applies, the concurring vote of four members of the
29 Extraterritorial Land Use Authority is required to reverse a determination of the
30 Extraterritorial Land Use Commission.
31

32 b. Written notice of appeal shall be filed with the Zoning Administrator. A filing fee of
33 \$75.00 shall accompany the notice of appeal on lots of one acre or less. A fee of
34 \$100.00 on all other appeals.
35

36 c. Public notice of any appeal shall be given by legal advertisement in the manner
37 prescribed for a change to the text of this ordinance. Written notice of any appeal,
38 together with notice of the hearing date, shall be sent to the applicant, a representative
39 of the opponents, if any, and to the appellant (if other than the applicant).
40

41 d. When an appeal is withdrawn after scheduling and advertising for public hearing by
42 the Extraterritorial Land Use Authority, the filing fee shall not be refunded to the
43 appellant.
44

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The appeal shall be presented to the Extraterritorial Land Use Authority within three months after the date the appeal is filed.

- e. Any such decision by the Extraterritorial Land Use Authority shall, in all instances, be the final administrative decision and shall be subject to judicial review as may be provided by law.

G. The ELUA may hear appeals of Bernalillo County Planning Commission decisions rendered prior to May 20, 1998 consistent with procedures enumerated in this section.

Section 26. Penalties.

A. Criminal Penalty.

Any owner, tenant, agent, occupant, or person in charge of any premises or any other person who violates any of the provisions of this ordinance, or fails to comply with any of its provisions or requirements, or who erects, structurally alters, enlarges, rebuilds, or moves any building or structure or who puts into use any lot or land in violation of any detailed statement of plan submitted and approved hereunder, or refuses the County reasonable opportunity to inspect any building, structure or premises shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding \$300.00 or imprisonment in the County Jail for a period not exceeding 90 days, or both fine and imprisonment.. Each day such violation is committed or permitted to continue may be considered a separate offense.

B. Civil Penalty.

As an additional remedy, any continuing violation of this ordinance may be subject to abatement by a restraining order or injunction by a court of competent jurisdiction.

Section 27. Severability.

The provisions of this ordinance are severable, and if any provision, sentence, clause, section, or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, the illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance or their application to the persons or circumstances. It is hereby declared to be the intent of the Extraterritorial Land Use Authority that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, sentence, clause, section, or part had not been included therein, and if the person or circumstances to which this ordinance or part thereof is inapplicable had been specifically exempted therefrom.

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Section 28. Effective Date. This ordinance is effective June 1, 1998.

PASSED, APPROVED, ADOPTED this _____ day of June, 1998.

ALBUQUERQUE/BERNALILLO COUNTY EXTRATERRITORIAL LAND USE AUTHORITY

COMMISSIONER STEVE D. GALLEGOS

MAYOR JIM BACA

COMMISSIONER BARBARA J. SEWARD

COUNCILLOR ALAN ARMIJO

COMMISSIONER LES HOUSTON

COUNCILLOR TIM CUMMINS

COMMISSIONER KEN SANCHEZ

COUNTY OF BERNALILLO LEGAL DEPARTMENT

DATE: _____

ATTEST:

JUDY D. WOODWARD, CLERK

DATE: _____

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